

Court of Appeal No.

**EXEMPT FROM FILING FEES
PURSUANT TO GOV. CODE § 6103**

**IN THE
CALIFORNIA COURT OF APPEAL
THIRD APPELLATE DISTRICT**

COUNTY OF PLACER,

Petitioner,

v.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF PLACER,

Plaintiff,

**NOAH FREDERITO and
PLACER COUNTY DEPUTY SHERIFFS' ASSOCIATION,**

Real Parties in Interest

APPEAL FROM MAY 17, 2022 ORDER OVERRULING DEMURRER OF
THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF PLACER, DEPT. 42,
THE HONORABLE MICHAEL W. JONES, PRESIDING (TEL. 916-408-6000)
SUPERIOR COURT CASE NO.: S-CV-0047770

**APPENDIX TO PETITION FOR WRIT OF MANDATE AND/OR
PROHIBITION OR OTHER APPROPRIATE RELIEF
[VOLUME 2 OF 4, PP. PA 178 - PA 475]**

Michael D. Youril, Bar No. 285591
Lars T. Reed, Bar No. 318807
LIEBERT CASSIDY WHITMORE
400 Capitol Mall, Suite 1260
Sacramento, CA 95814
Telephone: 916-584-7000
Facsimile: 916-584-7083

Attorneys for Petitioner
COUNTY OF PLACER

INDEX OF EXHIBITS

No.	Document	Date	Page Nos.
VOLUME 1			
1	Verified Petition for Writ of Mandate and Complaint for Declaratory Relief (incl. Summons, Civil Case Cover Sheet)	12/21/21	PA 5 - PA177
VOLUME 2			
2	Amended Verified Petition for Writ of Mandate and Complaint for Declaratory Relief	1/21/22	PA 182 – PA 348
3	Notice of Demurrer and Demurrer to Amended Petition (incl. Proposed Order)	2/2/22	PA 349 – PA 373
4	Notice of Motion and Motion to Strike (incl. Proposed Order)	2/2/22	PA 374 – PA 387
5	Request for Judicial Notice in Support of Demurrer and Motion to Strike	2/2/22	PA 388 – PA 392
6	Declaration of Reed in Support of Demurrer and Motion to Strike	2/2/22	PA 393 – PA 397
7	Declaration of Ronco in Support of Demurrer and Motion to Strike	2/2/22	PA 398 – PA 419
8	Notice of Non-Stipulation to Have County's Demurrer and Motion to Strike Heard by Commissioner	2/11/22	PA 420 – PA 422
9	Notice of Errata re Amended Verified Petition	2/17/22	PA 423 – PA 452

No.	Document	Date	Page Nos.
10	Opposition to Demurrer	2/17/22	PA 453 – PA 474
VOLUME 3			
11	Opposition to Motion to Strike	2/17/22	PA 480 – PA 500
12	Declaration of Mastagni in Support of Opposition to Motion to Strike	2/17/22	PA 501 – PA 516
13	Notice of Non-Stipulation to Have County's Demurrer and Motion to Strike Heard by Commissioner	2/18/22	PA 517 – PA 519
14	Reply to Opposition to Demurrer	2/24/22	PA 520 – PA 532
15	Reply to Opposition to Motion to Strike	2/24/22	PA 533 – PA 545
16	Declaration of Reed in Support of Reply to Opposition to Motion to Strike	2/24/22	PA 546 – PA 550
17	Ruling continuing hearing on Demurrer and Motion to Strike	3/2/22	PA 551 – PA 559
18	Ruling continuing hearing on Demurrer and Motion to Strike	3/23/22	PA 560 – PA 566
19	Request for Judicial Notice of New Authority in Support of Respondent's Demurrer	3/29/22	PA 567 – PA 596
20	Tentative Ruling re Demurrer and Motion to Strike	4/6/22	PA 597 – PA 601

No.	Document	Date	Page Nos.
21	Transcript of Oral Argument re Demurrer and Motion to Strike	4/7/22	PA 602 – PA 629
22	Minute Order re Demurrer and Motion to Strike	4/7/22	PA 630 – PA 631
23	Ruling on Demurrer and Motion to Strike	5/17/22	PA 632 – PA 639
VOLUME 4			
24	Second Amended Verified Petition for Writ of Mandate and Complaint for Declaratory Relief	5/27/22	PA 645 – PA 834

Exhibit 2

1 DAVID E. MASTAGNI, ESQ. (SBN 204244)
2 TAYLOR DAVIES-MAHAFFEY, ESQ. (SBN 327673)
3 **MASTAGNI HOLSTEDT**
4 *A Professional Corporation*
5 1912 "T" Street
6 Sacramento, California 95811
7 Telephone: (916) 446-4692
8 Facsimile: (916) 447-4614

9 Attorneys for Petitioners

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF PLACER

12 PLACER COUNTY DEPUTY SHERIFFS') Case No.: S-CV-0047770
13 ASSOCIATION and NOAH FREDERITO,)
14) **AMENDED VERIFIED PETITION FOR**
15) **WRIT OF MANDATE AND COMPLAINT**
16) **FOR DECLARATORY RELIEF**
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

Petitioners,)
vs.)
COUNTY OF PLACER,)
Respondent.) [Code Civil Proc. §1085]
[California Election Code § 9125]

Petitioners PLACER COUNTY DEPUTY SHERIFFS' ASSOCIATION and NOAH FREDERITO (collectively referred to as "Petitioners") allege the following:

1. Petitioner PLACER COUNTY DEPUTY SHERIFFS' ASSOCIATION ("DSA") is a non-profit organization that was formed to support current and retired sworn members of the Placer County Sheriff's Office. The DSA is the labor organization recognized by Placer County as the exclusively recognized employee organization and bargaining agent of employees in the classifications of Sheriff's Deputies. The DSA has over 250 active members. The DSA's representation of its members includes enforcement of their legal rights and obligations.
2. Petitioner NOAH FREDERITO ("Frederito") is, and at all times herein-mentioned was, employed by Respondent COUNTY OF PLACER in the capacity of Deputy Sheriff. Petitioner Frederito has been employed by the County of Placer as a Deputy Sheriff since 2013 to the present. He has been the President of the DSA since 2018.

1 3. Respondent COUNTY OF PLACER (“County”) is, and at all times relevant to this action
2 was a political subdivision, a public agency, corporate and public, organized and existing under
3 the Laws of the State of California and the Charter of the County of Placer. The County is, and at
4 all times herein mentioned was, a public agency within the meaning of Government Code section
5 3501(c), subject to the provisions of the Meyers-Milius-Brown Act (“MMBA”), and is obligated
6 to comply with the laws of the State of California and the United States and California Constitution.
7 The County has, and at all time herein mentioned had, a clear, present, and ministerial duty to
8 comply with the California Elections Code.

9 4. California Elections Code section 9125 provides:

10 No ordinance proposed by initiative petition and adopted either by the
11 board of supervisors without submission to the voters or adopted by
12 the voters shall be repealed or amended except by a vote of the people,
13 unless provision is otherwise made in the original ordinance. In all
14 other respects, an ordinance proposed by initiative petition and
15 adopted shall have the same force and effect as any ordinance adopted
16 by the board of supervisors.

15 **A Brief History of County Code § 3.12.040 (Measure F)**

16 5. Placer County voters passed Measure F in 1977, and its terms were codified in Placer
17 County Code (“County Code”) section 3.12.040 “Salaries—Placer County sheriff’s ordinance
18 initiative.” Immediately prior to the County’s September 28, 2021 repeal of section 3.12.040, it
19 stated as follows:

20 A. The board of supervisors shall, at least annually, determine
21 the existing maximum salaries for the Nevada County
22 sheriff’s office, El Dorado County sheriff’s office, and
23 Sacramento County sheriff’s office for each class of
24 position employed by said agencies.

25 B. Effective January 1, 1977, and effective January 1st of each
26 year thereafter the board of supervisors shall, during the
27 month of January, determine the average salary for each
28 class of position as set forth herein, and beginning the first
period following January shall fix the average salary for
each class of position in the Placer County sheriff’s office at
a level equal to the average of the salaries for the
comparable positions in the Nevada County sheriff’s office,
El Dorado County sheriff’s office and the Sacramento
County sheriff’s office.

1 C. As used herein the term “comparable class of position” shall
2 mean a group of positions substantially similar with respect
3 to qualifications or duties or responsibilities using the
4 following positions as guidelines:

1. Corporal, sergeant, deputy.

5 D. The provisions of this chapter shall prevail over any
6 otherwise conflicting provisions which may relate to salaries
7 of county employees or officers who are not elected by
8 popular vote.

9 6. Measure F requires the Board of Supervisors (“Board”) to annually determine the
10 maximum salaries for corporals, sergeants, and deputies in Nevada, El Dorado, and Sacramento
11 County Sheriff’s offices. The Board must “determine the average salary of each class of position”
12 and “shall fix the average salary for each class of positions in the Placer County sheriff’s office at
13 a level equal to the average salaries in the comparable positions” in those counties.

14 7. In 1980, voters established the Placer County Charter by adopting Measure K, which is
15 also codified in the County Code. County Code section 302(b) provides:

16 The Board shall:

17 (b) Provide, by ordinance, for the number of assistants, deputies,
18 clerks, and other persons to be employed from time to time in the
19 several offices and institutions of the county, and for their
20 compensation.

21 8. County Code section 603 provides:

22 All laws of the county in effect at the effective date of this Charter
23 shall continue in effect according to their terms unless contrary to the
24 provisions of this Charter, or until repealed or modified pursuant to
25 the authority of this Charter or the general law.

26 9. Since the adoption of the Placer County Charter and prior to the County’s contract
27 negotiations with Petitioner in 2020, the County has consistently construed Measure F’s salary
28 setting provisions as harmonious with the County Charter’s general grant of authority to provide
for compensation. During this period, the County deemed Measure F in full force and effect as
recognized by section 603.

///

1 10. Prior to 2020, the County consistently represented to representatives of the DSA that
2 Measure F was binding on the County and that the County could not negotiate base salaries that
3 deviated from Measure F, even when both parties desired to do so.

4 11. County officials made similar representations to the public.

5 12. In the early 2000s, the County and DSA agreed that salaries exceeding Measure F would
6 help stem recruitment and retention concerns. In 2002, both the County and DSA wanted to
7 negotiate a base salary that deviated from the Measure F formula. However, the County's
8 representatives informed the DSA that Measure F formula set the base salary. As a result of the
9 then mutual desire to eliminate Measure F, the County agreed to place "Measure R" on the ballot
10 seeking to repeal Measure F. (Exhibit A – Measure R.) Measure R stated: "Shall Placer County
11 Code, Chapter 3, Section 3.12.040 (also known as Measure F) be amended to remove that section
12 in its entirety, thereby repealing that provision which requires the Placer County Sheriff Deputy
13 salaries be set by averaging the Sheriff Deputy salaries of Nevada County, Sacramento County and
14 El Dorado County?" (*Ibid.*) Measure R did not pass. A true and correct copy of the Measure R
15 election materials and results is attached hereto as Exhibit A.

16 13. In 2003, the then County CEO wrote an editorial wherein he unequivocally explained to
17 the public that Measure F remained in full force and effect unless and until modified or repealed
18 by the voters. He also explained that Measure F operated to set base salaries for most DSA
19 members. In the Gold Media Article, he wrote "The public may not be aware that the county
20 must adhere to the voter-approved Proposition F measure that sets salaries... The county is unable
21 to change the Proposition F formula. Only the voters of Placer County can do that." A true and
22 correct copy of this article is attached hereto as Exhibit B.

23 14. In 2006, the County again attempted to repeal Measure F by placing "Measure A" on the
24 ballot, which admitted that Measure F remained in full force and effect so that "salaries are fixed
25 according to a formula using the average salaries of similar positions in designated counties."
26 County Counsel, Anthony La Bouff stated, "A "NO" vote on this Measure is a vote to retain the
27 existing ordinance." Measure A did not pass. A true and correct copy of the Resolution placing
28 Measure A on the ballot and the Measure A election results is attached hereto as Exhibit C.

1 15. Petitioner is informed and believes and therefore alleges that the voters retained Measure
2 F, at least in part, to ensure that DSA members' base salary remains comparable to the salaries of
3 deputies in the surrounding counties while reducing to likelihood of labor disputes between the
4 County and DSA.

5 16. After the 2006 election results, the DSA accepted the judgement of the voters.

6 17. The DSA and County subsequently negotiated labor contracts that incorporated the
7 Measure F formula for base pay and also increased total compensation to remain competitive in
8 the labor market. The parties agreed upon numerous incentive, education, and assignment pays,
9 as well as a benefits package, so that base salaries only represented about half of the DSA
10 compensation package.

11 18. After 2006, Measure F also ensured that DSA members' base salaries remained during
12 periods where the parties remained out of contract, preventing an exodus of experienced deputies
13 that might have otherwise occurred.

14 19. The County has affirmed Measure F multiple times through the adoption and modifications
15 of section 3.12.040.

16 20. As recently as January 12, 2021, the Board adopted an Ordinance amending Placer County
17 Code section 3.12.040 to exclude certain managers and affirming the application of Measure F to
18 DSA members. (Exhibit D – Ordinance 6060-B.) Ordinance 6060-B adopted the same language
19 in Measure F requiring the Board to set deputies' salaries at amounts equal to the average of the
20 comparator agencies. A true and correct copy of Ordinance 6060-B is attached hereto as Exhibit
21 D.

22 21. For over 40 years, the DSA and the County have adhered to the Measure F formula.

23 22. Petitioner is informed and believes and therefore alleges that the County's newly asserted
24 contention that Measure F has been invalid since 1980 was contrived to politically justify the
25 County's repeal of Measure F without submitting the repeal to the voters.

26 23. Petitioner is further informed and believes and therefore alleges that the County
27 circumvented the voters in repealing Measure F because a repeal vote is likely to be rejected by
28 the voters again.

1 24. The County annually adjusts the salaries of the Board of Supervisors using the same
2 formula as Measure F.

3 **Contract Negotiations and Impasse**

4 25. The DSA and the County were parties to a Memorandum of Understanding (“MOU”) that
5 expired June 30, 2018. The DSA and the County had incorporated the requirements of Measure F
6 into this MOU.

7 26. On November 30, 2018, the parties entered into an extension of the MOU, until
8 negotiations over a successor MOU had concluded.

9 27. As a result, the parties began negotiations over a new MOU on May 24, 2019.

10 28. Prior to impasse, the County made salary proposals which would maintain Measure F and
11 section 3.12.040.

12 29. Prior to declaring impasse on August 27, 2020, the County had never proposed eliminating
13 Measure F.

14 30. Prior to declaring impasse on August 27, 2020, no County representative had ever asserted
15 that Measure F was invalid or unenforceable.

16 31. Throughout negotiations, DSA representatives objected that the County’s salary proposal
17 violated Measure F, and thus was unlawful.

18 32. Prior to December 2020, the County’s representatives expressed a newly raised contention
19 that Measure F set minimum salaries, but that the County could propose salaries that exceeded
20 Measure F’s formula. These representations directly conflicted with the County’s representations
21 regarding Measure in prior rounds of bargaining.

22 33. On July 21, 2020, the County provided the DSA with a Last, Best, and Final Offer
23 (“LBFO”). The County’s last, best final offer included raises that temporarily exceeded the salary
24 formula by seven percent (7%). The proposal would effectively freeze any salary adjustment for
25 DSA members until the Measure F salary determination had increased at least seven percent.

26 34. On August 27, 2020, the County declared impasse.

27 ///

28 ///

1 35. The DSA requested factfinding impasse procedures pursuant to MMBA section 3505.4,
2 and the Public Employment Relations Board (“PERB”) accepted the DSA’s request on October 27,
3 2020.

4 36. The County objected to participating in fact-finding and attempted to undo its declaration
5 of impasse. Over these objections, PERB ordered the County to participate in fact-finding.

6 37. Catherine Harris was selected as the Chairperson of the factfinding panel; DSA selected
7 Jason Farren as its panelist; and the County selected Jane Christenson as its panelist.

8 38. On September 12, 2020, after declaring impasse, the County published a public document
9 on its website entitled “Questions and Answers about Contract Negotiations” (“September Q&A”).
10 (Exhibit E – Q&A.) The September Q&A admitted the validity and enforceability of Measure F.

11 39. However, the County asserted its new interpretation of Measure F as only establishing the
12 “minimum salary of various law enforcement positions,” and claimed that “[t]he voters have also
13 given the Board of Supervisors the authority to negotiate higher salaries.” A true and correct copy
14 of the public document is attached hereto as Exhibit E.

15 40. The County’s admissions and public representation of the September Q&A are
16 irreconcilable with the County’s even newer contention that Measure F has been invalid since 1980.

17 41. Prior to this round of bargaining, the County had maintained that Measure F set deputies’
18 salaries, and that the County did not have discretion to offer salaries that deviated from the Measure
19 F formula.

20 42. On September 24, 2020, the DSA filed an unfair practice charge (“UPC”) with PERB
21 alleging the County acted in bad faith by insisting to impasse over a number of illegal proposals,
22 including a salary proposal which violated Measure F.

23 43. On December 26, 2020, the County filed a position statement in response to the allegations
24 in the UPC, including the allegation that the County’s salary proposal was unlawful.

25 44. For the first time in writing, the County’s position statement claimed Measure F was
26 “unconstitutional” and that it has been “void” under its Charter for 40 years.

27 45. The County raised these new legal assertions with PERB despite have twice unsuccessfully
28 asked the voters to repeal Measure F. The assertions in the position statement also directly

1 conflict with the County's prior representations to the DSA and the public, as reflected in the
2 September Q&A.

3 46. Petitioner is informed and believes and therefore alleges that the County concocted its
4 assertion that Measure F was invalidated in 1980 in order to justify its unlawful bargaining
5 practices. Petitioner is further informed and believes and therefore alleges that the County
6 unilaterally repealed section 3.12.040 without submitting the issue to the voters or seeking a
7 judicial determination in order to bolster its defense of the DSA's ULP.

8 47. On December 8, 2020, the County presented the DSA with a new package proposal. As
9 part of that proposal, the County proposed to completely disregard section 3.12.040 and instead
10 provide arbitrary fixed wage increase amounts for three years. This December 8 proposal was the
11 first proposal submitted by the County had completely disregarded Measure F, as the LBFO would
12 have only temporarily set salaries seven percent (7%) above Measure F. The proposal was silent
13 as to the repeal of Measure F.

14 48. Despite its understanding that the DSA desired to continue adhering to the voter enacted
15 formula of Measure F, the County proposed fixed wage increases that exceeded Measure F in 2021
16 and exceed the historical average of Measure F in 2022 and 2023.

17 49. Petitioners are informed and believe and therefore allege that the County proposed salary
18 increases intended to exceed Measure F to induce the DSA to collaborate with the County in
19 eliminating Measure F and section 3.12.040 without submitting the repeal to the voters.

20 50. Petitioners are informed and believe and therefore allege that the County offered these
21 higher salary increases to induce the DSA to support the unilateral repeal of Measure F and thereby
22 avoid judicial review of the County's actions.

23 51. The County successfully induced the Law Enforcement Managers Association to agree to
24 a contract extension with salaries that will almost certainly exceed Measure F over a three (3) year
25 period. Section 3.12.040 was amended in January of 2021 to reflect the removal of members of
26 the Law Enforcement Managers Association.

27 52. In response to the December 8, 2020 package proposal from the County, the DSA's
28 bargaining team informed the County that it would agree to the majority of its package proposal if

1 the County would replace its wage proposal with continued adherence to Measure F, which almost
2 certainly would result in a lower salary increases than the County's proposal. The DSA also
3 requested modifications to the County's longevity proposal and Tahoe residency proposal.

4 53. On January 6, 2021, the County informed the DSA that its counter-offer had been rejected
5 by the Board of Supervisors.

6 54. On February 11, 2021, the County sent the DSA "Notice" that it intended to unilaterally
7 repeal Measure F, despite Measure F being a voter enacted ordinance and the subject of both the
8 unfair labor practice and the factfinding.

9 55. Despite the evolving and ever-changing legal positions of the County regarding the validity
10 of Measure F, the County asserted that the unenforceability of Measure since 1980 was an open
11 and shut determination.

12 56. The County never sought any superior court adjudication of the dispute over the validity
13 of Measure F, instead it unilaterally declared it unconstitutional.

14 57. On March 15, the County made another proposal to repeal Measure F outside of the
15 factfinding process.

16 **Factfinding Proceedings and Recommendations**

17 58. From March 8 to March 9, 2021, the DSA and County participated in factfinding
18 proceedings.

19 59. Directly following the factfinding hearing, the DSA and the County agreed to submit the
20 dispute over the repeal of Measure F to the factfinding panel, and the factfinding panel agreed to
21 issue a finding regarding whether the County could repeal Measure F. A true and correct copy of
22 that correspondence is attached hereto as Exhibit F.

23 60. Throughout April, May, and June of 2021, the panel held confidential deliberation meetings
24 to discuss the factfinding hearing.

25 61. On August 25, 2021, the factfinding panel issued its final factfinding report. The report
26 recommended that the parties keep the Measure F formula in place for this contract cycle and
27 jointly submit the issue to the voters. (Exhibit G – Factfinding Report, at pp. 25-26.) A true and
28 correct copy of the factfinding report is attached hereto as Exhibit G.

1 62. In analyzing the County’s argument that Measure F is unconstitutional, the factfinding
2 report reasons: “County Code Section 3.12.040 and the negotiated agreements have coexisted for
3 a period of 44 years in harmony as both the local ordinance and successive MOUs have contained
4 the identical base salary formula. Under these circumstances, it is doubtful that any court would
5 conclude that [authority cited by County] compels the conclusion that County Code Section
6 3.12.040 is unconstitutional.” (*Id.* at p. 21:6-10.)

7 63. The report cast doubt upon the County’s legal arguments against Measure F and for that
8 reason recommended that the parties contractually agree to use the Measure F formula for
9 determining base salary for the next 5 years and “place[] resolution of the Measure F issue in the
10 hands of the voters.” (*Id.* at pp. 19: 19; 26:15-16.)

11 **The County’s Repeal of Measure F**

12 64. On September 14, 2021, the Board of Supervisors held a public hearing over its proposals
13 to repeal Measure F and impose salary amounts exceeding Measure F’s mandates. The members
14 of the public who spoke at the hearing overwhelmingly asked the Board to respect the will of the
15 voters as reflected in Measure F and objected to the County circumventing the initiative process.

16 65. On September 28, 2021, after the public hearing, the Board ignored the recommendations
17 of the factfinding panel and adopted Resolution No. 2021-301, which imposed the terms of its
18 December 8 offer and eliminated Measure F by repealing section 3.12.040. The imposed salary
19 terms exceed and violate Measure F.

20 66. On September 28, 2021, the Board of Supervisors also adopted Resolution 6105-B, which
21 increased the salaries of deputies and sergeants by 1.09% and 1.41%, respectively, above the
22 amount set by Measure F in February of 2021. A true and correct copy is attached hereto as Exhibit
23 H.

24 ///

25 ///

26 ///

27 ///

28 ///

1 67. On September 28, 2021, the Board adopted Ordinance 6104-B, which amended County
2 Code § 3.12.040 to read:

3 3.12.040 Salaries-All represented employees.
4 Pursuant to Article XI, Sections 1, 3, and 4 of the California
5 Constitution, Sections 302 and 604 of the Placer County Charter,
6 adopted by the electorate on November 4, 1980, and California
7 Government Code Sections 3504 and 3505, the Board of Supervisors
8 shall negotiate and set compensation for all employees represented by
9 PPEO, PCLEMA, and DSA. (Exhibit I – 6104-B.)

8 68. A true and correct copy of Ordinance 6104-B is attached hereto as Exhibit I.

9 69. Ordinance 6104-B repealed the Measure F formula in section 3.12.040, stripping DSA
10 members of the annual wage adjustments enacted by the voters.

11 70. The Board adopted Ordinance 6104-B without placing the repeal of the voter-enacted
12 Measure F on the ballot.

13 71. These actions violated Elections Code section 9125, which dictates that “no ordinance
14 proposed by initiative petition and adopted either by the board of supervisors without submission
15 to the voters or adopted by the voters shall be repealed or amended except by a vote of the
16 people, unless provision is otherwise made in the original ordinance.”

17 72. To justify repealing Measure F without the requisite voter approval, the County conjured
18 an argument that Measure F violates the Charter, despite its decades of prior inconsistent
19 statements and actions. The County’s new claim was set forth in the agenda provided to the public
20 in advance of a September 14, 2021 Board meeting:

21 The Charter vests authority over the compensation of employees and
22 existing local laws in the Board of Supervisors. Since the adoption of
23 the Charter was subsequent to the 1976 election, Measure F and
24 §3.12.040 were legally superseded by the actions of the 1980
25 electorate. At minimum, a salary formula that leaves no discretion to
26 the Board in setting compensation for its employees is inconsistent
27 with the Board’s broad jurisdiction and authority granted by the
28 Charter to establish compensation for county employees. (Exhibit J –
September 14, 2021 Agenda.)

27 73. Moreover, Measure F only pertains to base salary, not total wages or overall compensation.

28 ///

1 74. The compensation for members of the DSA has always been determined by the County
2 Board of Supervisors. Measure F has harmoniously co-existed with the County's power to set
3 the compensation of DSA members.

4 75. The compensation of DSA members includes much more than base salary. It includes
5 incentive pays, assignment pays, education pays, longevity pays, employee and employer pension
6 contribution amounts to CalPERS, pension benefits, flex medical benefits, paid leave, overtime
7 and other similar pays and benefits.

8
9 **FIRST CAUSE OF ACTION**

10 **(§ 1085 Writ of Mandate)
for Violation of Election Code § 9125**

11 76. Petitioners incorporate the allegations contained in paragraphs 1 through 92, inclusive, as
12 though set forth here in full. This cause of action is brought against Respondent.

13 77. Petitioners are entitled to apply directly to this court for relief pursuant to Code Civil Proc.
14 section 1085.

15 78. No other plain, speedy, and adequate remedy exists.

16 79. The United States and California Constitutions and Elections Code section 9125 create a
17 clear, present, and ministerial duty under the law for Respondent to abide by Elections Code
18 section 9125 in enacting relevant ordinances or legislation. Section 9125 states, in relevant part,
19 "No ordinance proposed by initiative petition and adopted either by the board of supervisors
20 without submission to the voters or adopted by the voters shall be repealed or amended except by
21 a vote of the people, unless provision is otherwise made in the original ordinance."

22 80. Petitioners have a clear, present and beneficial right to the performance of Respondent's
23 duty to follow the law as outlined in the Elections Code. Petitioners have a clear, present and
24 beneficial right to the performance of Respondent's duty to annually adjust salaries in accordance
25 with Measure F, unless and until Measure F is amended or repealed by the voters. Respondent
26 breached this duty by adopting Ordinance 6104-B and repealing the voter enacted Measure
27 F/County Code section 3.12.040 without the required vote by the electorate.

28 ///

1 **SECOND CAUSE OF ACTION**

2 **(§ 1085 Writ of Mandate)**

3 **for Violation of Placer County Code § 3.12.040**

4 81. Petitioners incorporate the allegations contained in paragraphs 1 through 92, inclusive, as
5 though set forth here in full. This cause of action is brought against Respondent.

6 82. Petitioners are entitled to apply directly to this court for relief pursuant to Code Civil Proc.
7 section 1085.

8 83. No other plain, speedy, and adequate remedy exists.

9 84. The United States and California Constitutions and Placer County Code section 3.12.040
10 create a clear, present, and ministerial duty under the law for Respondent to “fix the average salary
11 for each class of position in the Placer County sheriff’s office at a level equal to the average of the
12 salaries for the comparable positions in the Nevada County sheriff’s office, El Dorado County
13 sheriff’s office and the Sacramento County sheriff’s office.”

14 85. Petitioners have a clear, present and beneficial right to the performance of Respondent’s
15 duty to abide by Section 3.12.040 and set deputies salaries using the method it requires.

16 86. Respondent breached this duty by failing to abide by Measure F/ section 3.12.040 in
17 determining deputies’ salaries following the imposition of their December 8 offer on September
18 14, 2021.

19 **THIRD CAUSE OF ACTION**

20 **(Declaratory Relief)**

21 87. Petitioners incorporate the allegations contained in paragraphs 1 through 92, inclusive, as
22 though set forth here in full. This cause of action is brought against Respondent.

23 88. An actual controversy has arisen and now exists between Petitioners and Respondent
24 concerning the legality of Respondent’s repeal of the Measure F/ Section 3.12.040 formula without
25 voter approval.

26 89. An actual controversy has arisen and now exists between Petitioners and Respondent
27 concerning the legality of Respondent’s imposition of a salary that deviated from the Measure F/
28 3.12.040 formula.

1 90. Since an ongoing and actual justiciable controversy exists between the parties as to their
2 respective legal obligations/entitlement, it is necessary the Court intervene and resolve these
3 disputes.

4 91. Petitioners have no adequate available administrative remedy in which to avail itself in this
5 manner.

6 92. Petitioners are therefore entitled to a judicial declaration that Respondent's action repealing
7 Section 3.12.040 without voter approval violated Elections Code section 9125.

8 93. Petitioners are also entitled to a judicial declaration that Respondent's imposition of a
9 salary that deviated from the Section 3.12.040 formula was illegal.

10 WHEREFORE, Petitioners pray for judgment as follows:

11 1. For a Peremptory Writ of Mandate compelling Respondent to repeal and rescind
12 Resolutions 6104-B and 6105-B.

13 2. For a Peremptory Writ of Mandate compelling Respondent to restore and comply with the
14 requirements of Section 3.12.040/ Measure F in setting salaries for employees of the Placer County
15 Sheriff's Office.

16 3. For a declaratory judgment in favor of Petitioners finding that Respondent violated
17 Elections Code section 9125 by repealing the voter enacted County Code section 3.12.040 and
18 Measure F without submitting a repeal measure to the public.

19 4. For a declaratory judgment in favor of Petitioners finding that Respondent has a legal duty
20 to comply with Section 3.12.040 and Measure F in setting deputies' salaries, unless and until,
21 Section 3.12.040/Measure F is repealed or otherwise amended by the voters.

22 5. For reasonable attorneys' fees and costs including but not limited to those provided under
23 Code of Civil Procedure section 1021.5;

24 6. For an award of actual damages subject to proof;

25 7. For costs of suit incurred herein;

26 8. For such other and further relief as the Court deems just and proper; and

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

9. For a statement of decision.

DATED: January 21, 2022

Respectfully Submitted:

MASTAGNI HOLSTEDT, APC



DAVID E. MASTAGNI, ESQ.
TAYLOR DAVIE-MAHAFFEY, ESQ.
Attorneys for Petitioners

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I am a Petitioner in the above-entitled action or proceeding. I have read the foregoing Amended Verified Petition for Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof, and I certify that those matters which reference me are true of my own knowledge, except as to those matters which are therein stated upon information and belief.

Executed on 1/21/2022 at Loomis, California.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.



NOAH FREDERITO

EXHIBIT A

PLACER COUNTY
OFFICIAL ELECTION SUMMARY (Revised)
November 5, 2002
FINAL FINAL

Date: 11/27/02
Time: 17:06:34
Page: 19 of 19

Registered Voters 154130 - Cards Cast 99292

Num. Report Precinct 364 - Num. Reporting 364

Q AUBURN CITY SPEED BUMPS		
Number of Precincts	Total	
Precincts Reporting	17	
Total Votes	17	100.00%
NO	4793	
YES	3215	67.08%
	1578	32.92%

R PLACER CO SHERIFF DEPUTY SALARIES		
Number of Precincts	Total	
Precincts Reporting	363	
Total Votes	363	100.00%
NO	85825	
YES	46425	54.09%
	39400	45.91%

needs majority

S COLFAX CITY APPOINT CITY CLERK		
Number of Precincts	Total	
Precincts Reporting	1	
Total Votes	1	100.00%
YES	451	
NO	247	54.77%
	204	45.23%

MEASURE R

PLACER COUNTY SHERIFF DEPUTY SALARY CODE REVISION

Shall Placer County Code, Chapter 3, Section 3.12.040 (also known as Measure F) be amended to remove that section in its entirety, thereby repealing that provision which requires Placer County Sheriff Deputy salaries be set by averaging the Sheriff Deputy salaries of Nevada County, Sacramento County and El Dorado County?

YES _____ NO _____

IMPARTIAL ANALYSIS BY PLACER COUNTY COUNSEL

In November of 1976, the voters of Placer County approved "Initiative F" which adopted an ordinance requiring the salaries for sworn law enforcement officers employed with the Placer County Sheriff's Department be fixed at the level of the average salary of the average comparable position in the three counties of Nevada, El Dorado and Sacramento. This ordinance is currently designated Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative.

An affirmative vote from the electorate on this measure would repeal the above referenced ordinance from the Placer County Code. Effective January 2003, salary levels for sworn law enforcement in Placer County would be established in the same manner as other County employees, through periodic negotiation between the Placer County Board of Supervisors and the representatives for sworn law enforcement employees.

A "YES" vote on this Measure would repeal the ordinance and enable the Board of Supervisors and the Placer County Sheriff's sworn personnel to negotiate compensation in the same manner as other county employees.

A "NO" vote on this Measure is a vote to retain the existing ordinance that sets the compensation for Placer County Sheriff's sworn personnel at the same rate as the average compensation level of those sworn law enforcement personnel in comparable positions in the counties of Nevada, Sacramento and El Dorado.

Anthony J. La Bouff
County Counsel

By: Sabrina M. Thompson
Deputy County Counsel

RESOLUTION 2002-184

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY RESOLVE THAT:

WHEREAS, In November of 1976, the voters of Placer County approved an initiative entitled Measure F that set the salaries for sworn law enforcement officers employed with the Placer County Sheriff's Department based upon a formula set in the Initiative; and

WHEREAS, Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative was codified a result of that initiative, and currently reads as follows; and

3.12.040 Salaries--Placer County Sheriff's ordinance Initiative.

A. The board of supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County Sheriff's office, El Dorado County Sheriff's office and Sacramento County Sheriff's office for each class of position employed by said agencies.

B. Effective January 1, 1977, and effective January 1st of each year thereafter the board of supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first period following January shall fix the average salary for each class of position in the Placer County Sheriff's office at a level equal to the average of the salary for the comparable positions in the Nevada County Sheriff's office, El Dorado County Sheriff's office and the Sacramento County Sheriff's office.

C. As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to

qualifications or duties or responsibilities using the following positions as guidelines:

1. Undersheriff, inspector, corporal, captain, sergeant, deputy, lieutenant.

D. The provisions of this chapter shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are elected by popular vote. (Prior code § 14.3005)

WHEREAS, the Placer County Deputy's Association has requested that the Placer County Board of Supervisors place on the November 5, 2002 general election ballot a measure to repeal this Initiative; thereby removing the section quoted above from the Placer County Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California, that:

1. The Board of Supervisors proposes a ballot measure to repeal Measure F, currently designated as Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative; and

2. The Board of Supervisors orders that the following question be placed as a County measure on the ballot of the Statewide General Election to be held November 5, 2002:

MEASURE R

Shall Placer County Code, Chapter 3, Section 3.12.040 (also known as Measure F) be amended to remove that section in its entirety, thereby repealing that provision which requires Placer County Sheriff Deputy salaries be set by averaging the Sheriff Deputy salaries of Nevada County, Sacramento County and El Dorado County?

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of:

**Resolution Ordering Ballot Measure
repealing Measure F - Sheriff Pay
Ordinance Initiative to be Placed on the
Ballot of Statewide General Election to
be Held November 5, 2002.**

Resol. No: 2002-184

Ord. No: _____

First Reading: _____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held July 23, 2002 by the following vote on roll call:

Ayes: SANTUCCI, WHITE, BLOOMFIELD, GAINES

Noes: WEYGANDT


Absent: NONE

Signed and approved by me after its passage.



CHAIRMAN, BOARD OF SUPERVISORS

Attest:
Clerk of said Board



THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY RESOLVE THAT:

WHEREAS, in November of 1976, the voters of Placer County approved an initiative entitled Measure F that set the salaries for sworn law enforcement officers employed with the Placer County Sheriff's Department based upon a formula set in the initiative; and

WHEREAS, Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative was codified a result of that initiative, and currently reads

as follows; and

3.12.040 *Salaries--Placer County Sheriff's ordinance initiative.*

A. *The board of supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County Sheriff's office, El Dorado County Sheriff's office and Sacramento County Sheriff's office for each class of position employed by said agencies.*

B. *Effective January 1, 1977, and effective January 1st of each year thereafter the board of supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first period following January shall fix the average salary for each class of position in the Placer County Sheriff's office at a level equal to the average of the salary for the comparable positions in the Nevada County Sheriff's office, El Dorado County Sheriff's office and the Sacramento County Sheriff's office.*

C. *As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:*

1. *Undersheriff, inspector, corporal, captain, sergeant, deputy, lieutenant.*

D. *The provisions of this chapter shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are elected by popular vote. (Prior code § 14.3005)*

WHEREAS, the Placer County Deputy's Association has requested that the Placer County Board of Supervisors place on the November 5, 2002 general election ballot a measure to repeal this initiative; thereby removing the section quoted above from the Placer County Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California, that:

- 1. The Board of Supervisors proposes a ballot measure to repeal Measure F, currently designated as Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative; and**
- 2. The Board of Supervisors orders that the following question be placed as a County measure on the ballot of the Statewide General Election to be held November 5, 2002:**

MEASURE _____

Shall Placer County Code, Chapter 3, Section 3.12.040 (also known as Measure F) be amended to remove that section in its entirety, thereby repealing that provision which requires Placer County Sheriff Deputy salaries be set by averaging the Sheriff Deputy salaries of Nevada County, Sacramento County and El Dorado County?

TYPE AND DATE OF ELECTION

GUBERNATORIAL GENERAL

NOVEMBER 5, 2002

COUNTY
R Shall Placer County Code, Chapter 3, Section 3.12.040 (also known as Measure F) be amended to remove that section in its entirety, thereby repealing that provision which requires Placer County Sheriff Deputy salaries be set by averaging the Sheriff Deputy salaries of Nevada County, Sacramento County and El Dorado County?
<input type="radio"/> YES <input type="radio"/> NO

R PLACER CO SHERIFF DEPUTY SALARIES		
	Total	
Number of Precincts	363	
Precincts Reporting	363	100.00%
Vote For	1	
Total Votes	85825	
Times Over Voted	27	
Number Of Under Votes	13229	
NO	46425	54.09%
YES	39400	45.91%

(Requires 50% + 1 approval for passage)

EXHIBIT B



Proposition F, not county, determines deputy salaries



Jan ChristoffersonPlacer County chief executive officer Aug 03, 2003 11:00 AM

The Auburn Journal has received a series of letters from citizens concerned about Placer County's current negotiations with the Placer County Deputy Sheriff's Association (DSA).

Up until now, the county has resisted responding, in keeping with an agreement with the DSA to maintain confidentiality in the negotiation process.

However, the letters raise serious questions about the county's commitment to its law enforcement employees. I need to correct the misconceptions the letters have expressed.

It is important to note that Placer County has a long tradition of supporting its public safety and law enforcement employees. This is reflected in the overall level of resources committed to the public safety departments, as well as the salaries and benefits employees currently receive.

The public may not be aware that the county must adhere to the voter-approved Proposition F measure that sets salaries. Proposition F prohibits the county from negotiating salary increases for deputy sheriffs in Placer County. Proposition F was a measure sponsored by the DSA and adopted by county voters in 1976.

The proposition requires the county to set the salaries of deputy sheriffs according to a formula that averages salaries paid to comparable employees in three surrounding counties: Sacramento, El Dorado and Nevada. Under that formula, the deputy sheriffs in Placer County received salary increases of 2.8 percent in February of this year. The base salary for a five-year deputy sheriff II is now \$49,000, plus benefits.

The county is unable to change the Proposition F formula. Only the voters of Placer County can do that. For that reason, the DSA sponsored a ballot measure in November 2002 to repeal Proposition F. The Placer County Board of Supervisors agreed to put the issue on the ballot.

However, the voters rejected the new ballot measure, deciding the Proposition F formula is still the required method to set salaries.

At the conclusion of the last contract, the county agreed to improve the retirement package for DSA employees by adopting a retirement program that is the most generous permitted by state law. In fact, our deputies and probation officers do not make employee contributions to their retirement program ? the county

Other questions have focused upon incentives. DSA employees also receive a variety of incentives in addition to salary, including a 2.6 percent basic educational incentive paid under the last contract. However, this provision specifically had an ending date.

While we cannot publicly discuss the details of negotiations, I believe it is important for Journal readers to be aware that the county’s position regarding this contract issue has been clearly and consistently communicated to the DSA leadership, and at no time has the county ever set out to reduce the total compensation to its public safety employees.

I want the citizens of this county to be assured that the board of supervisors greatly values our law enforcement employees, and is doing everything possible to negotiate a competitive and reasonable agreement that the county can afford in these difficult budget times.

Jan Christofferson has been Placer County’s chief executive officer since May 2001.



Sign up for our Newsletters!

Today's news in your inbox

Sign Up Now!

TOP STORIES

CAL FIRE: Auburn Denny's blaze deemed human caused

Auburn Police Department arrests kidnapping suspect

Placer's Mason invited to Twins spring training

Auburn resident, World War II hero Cornett awarded Purple Heart, Bronze Star

Fire extinguished at Placer Government Center in Auburn; firefighters trained nearby a day earlier

Hopper fire at Sierra Pacific

Auburn City Councilman Berlant chronicles his vaccine experience

Placer County Sheriff's arrest log: Stolen vehicle, lawn equipment burglary

EXHIBIT C

Before the Board Of Supervisors County of Placer, State of California

In the matter of: An ordinance amending Placer County
Code, Chapter 3, Sections 3.08.070, 3.12.010, Appendix 1
and 9, 3.12.020, 3.12.030 and 3.12.040 relating to the Sheriff's Department.

Ordinance No.: 5441-B

First Reading: 11-7-06

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a
regular meeting held November 20, 2006, by the following vote on roll call:

Ayes: WEYGANDT, HOLMES, GAINES, KRANZ, SANTUCCI

Noes: NONE

Absent: NONE

Signed and approved by me after its passage.


Chairman, Board of Supervisors

Attest:
Clerk of said Board



THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES
HEREBY ORDAIN AS FOLLOWS:

That Placer County Code, Chapter 3, Section 3.08.070, 3.12.010 Appendix 1 and Appendix 9, 3.12.020,
3.12.030 and 3.12.040 are hereby amended as follows: (Additions to ordinance shown in bold and
underline, deletions shown with strike-through.)

Section 1. That Article 3.08, Section 3.08.070 is hereby amended to read as follows:

3.08.070 Classified and Unclassified Service Defined

* * * *

A. The unclassified service shall consist of:

* * * *

122. Assistant Sheriff

Section 2. That Article 3.12, Section 3.12.010, Appendix 1 is hereby amended to read as follows:

**3.12.010 APPENDIX 1
SHERIFF**

(b)	Sheriff Administration and Support	
	<u>Assistant Sheriff</u>	<u>1</u>
	Sheriff's Captain	4

* * * * *

Section 3. That Article 3.12, Section 3.12.010, Appendix 9 is hereby amended to read as follows:

3.12.010 APPENDIX 9 Management – Safety MGTS

New Salary Grade	Step 1	Step 2	Step 3	Step 4	Step 5
<u>S52</u>	<u>44.5056</u>	<u>46.7309</u>	<u>49.0674</u>	<u>51.5208</u>	<u>54.0968</u>
S-52 S53	50.1440	52.3365	54.6250	57.0135	59.5065

* * * * *

Section 4. That Article 3.12, Section 3.12.020 is hereby amended to read as follows:

3.12.020 Classified Service

1. Uniform Allowance—Sworn Peace Officers

Assistant Sheriff

* * * * *

2. Career and Education Incentive

Effective July 23, 2004 at 5:01 p.m., full-time permanent employees in the following classes shall be eligible for the career and education incentive:

Assistant Sheriff

* * * * *

25. Wellness Incentive, Deputy Sheriffs' Unit and Safety Management

(a.) Effective pay period 3, July 8, 2005 at 5:01 p.m., employees in the following classifications, if otherwise qualified pursuant to this section, shall receive an allowance equal to two and one-half percent of his or her base pay:

Assistant Sheriff

* * * * *

Section 5. That Article 3.12, Section 3.12.030 is hereby amended to read as follows:

3.12.030 Unclassified Service

Admin Code	Classification Title	Salary Appendix	Grade
<u>11733</u>	<u>Assistant Sheriff</u>	<u>MGTS – 9</u>	<u>S52</u>
19888	Undersheriff	MGTS – 9	S52 <u>S53</u>

* * * * *

Section 6. That Article 3.12, Section 3.12.040 is hereby amended to read as follows:

3.12.040 Salaries – Placer County Sheriff's Ordinance Initiative

* * * * *

C. As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:

1. Undersheriff, Assistant Sheriff *, inspector, corporal, captain, sergeant, deputy, lieutenant.

*Assistant Sheriff will be set at 10% below the Undersheriff if no comparable class of position available.

* * * * *

Section 7. That this ordinance shall be effective the first day of the pay period following final passage.

Before the Board Of Supervisors County of Placer, State of California

In the matter of: Re-adoption of the Personnel Rules in
its entirety as identified in Chapter 3 of the Placer County
Code and Amendment to Chapter 2, Administration, Article 2.12
County Office Hours

Ordinance No. 5478-B

First Reading: July 10, 2007

Second Reading: _____

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a
regular meeting held July 24, 2007, by the following vote on roll call:

Ayes: ROCKHOLM, WEYGANDT, HOLMES, UHLER, KRANZ
Noes: NONE
Absent: NONE

Signed and approved by me after its passage.


Chairman, Board of Supervisors

Attest:
Clerk of said Board



THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES
HEREBY ORDAIN AS FOLLOWS:

Chapter 3 of the Placer County Code is readopted in whole, and as set forth in
attachment A hereto, except as otherwise set forth herein. Should attachment "A"
inadvertently contain provisions that are in conflict with provisions contained in
previously adopted ordinance numbers 5442-B, 5443-B, or 5444-B, then the provisions
of these previously adopted ordinances shall control.

The Chapter 3 sections and appendices identified in this paragraph, and as modified
by recent ordinance changes, are not part of attachment "A" hereto. These sections
and appendices are not being deleted, revoked, amended, or otherwise changed in
substance, but are only being uncodified. A) The administrative code, classification

title, salary plan- appendix, and grade information contained in sections 3.12.020* and 3.12.030*. B) The entirety of appendices 1, 1A, 1B, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14. C) The current schedule of all titles coming within the classified service pursuant to section 3.08.070.

*(Portions of these sections will remain in the codified attachment "A" while consolidated collective bargaining agreements and consolidated salary and benefits ordinances are being finalized. After those consolidated documents are finalized, these portions will also become uncodedified).

Chapter 2 ADMINISTRATION

Article 2.12 COUNTY OFFICE HOURS

2.12.010 Hours and holidays of county offices generally.

Except as provided in the following section, the minimum that county offices shall keep their offices open for the transaction of business shall be during the hours of eight a.m. and five p.m., (unless otherwise ordered by minute order of the board of supervisors) Mondays through Fridays, with the exception of the following holidays on which county offices shall be closed:

- A. January 1st.
- B. Third Monday in January (Martin Luther King, Jr. Day).
- C. February 12th, (Lincoln's Day).
- D. The third Monday in February (President's Day).
- E. Last Monday in May (Memorial Day).
- F. July 4th.
- G. First Monday in September (Labor Day).
- H. Second Monday in October (Columbus Day).
- I. November 11th (Veteran's Day).
- J. Thanksgiving Day.
- K. The day following Thanksgiving Day.
- L. December 25th.
- M. Every day appointed by the President or the Governor for a public fast, Thanksgiving or holiday, subject to approval by board of supervisors.
- N. When any of the foregoing holidays falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed.

O. When any of the foregoing holidays falls on a Saturday, the proceeding Friday shall be deemed to be the holiday in lieu of the day observed.

~~O. For county holidays falling on a Saturday from and after five p.m., December 24, 1971, such employees shall be entitled to a holiday the preceding Friday unless the board of supervisors, by minute order, directs that such eight hours be added to each such employee's annual vacation leave.~~

~~1. For county holidays falling on the normal day off for employees working other than a normal Monday through Friday schedule (i.e., 9-80, 8-80, etc.), such employees shall have an additional eight hours credited to their vacation balance. (County holiday defined per County Code Section 3.08.170)~~

~~P. Floating Holiday. During the first full pay period of the calendar year, eight hours floating holiday will be credited to employees. Employees unable to complete six~~

Ordinance # 5478-B

~~months (one thousand forty (1,040) straight time hours) initial probationary period prior to December 31st, shall not be eligible for any Floating Holiday that year. Hours shall be prorated for permanent part-time employees. Floating holiday shall be taken within the calendar year granted, and shall not carry over from year to year. Unused holiday time will not be compensated upon termination.~~

~~It will be management's policy to make every effort to allow employees to take the time off at their choosing. (Ord. 5362-B, 2005; Ord. 5342-B, 2005; Ord. 5006-B (part); 1999: prior code § 2.1)~~

EXHIBIT D

Before the Board of Supervisors County of Placer, State of California

In the matter of: An ordinance amending
§3.12.040 of the Placer County Code, pertaining
to the compensation of specified safety
managers.

Ordinance No.: 6060-B

Introduced: December 15, 2020

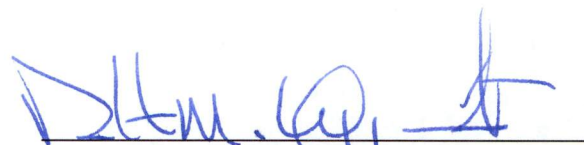
The following Ordinance was duly passed by the Board of Supervisors of the County of
Placer at a regular meeting held January 12, 2021, by the following vote:

Ayes: GORE, HOLMES, JONES, GUSTAFSON, WEYGANDT

Noes: NONE

Absent: NONE

Signed and approved by me after its passage.


Chair, Board of Supervisors

Attest:


Clerk of said Board

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF
CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. County Code Chapter 3, Article 3.12, Section 3.12.040 regarding Salaries related to the Placer County Sheriff's Ordinance Initiative is amended as set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. That this ordinance shall be effective upon adoption.

Section 3. That this ordinance amendment is adopted as a codified ordinance.

Exhibit A

That the following section 3.12.040 of Chapter 3 of the Placer County Code is hereby amended to read as indicated (additions to ordinance shown in **bold and underline**, deletions shown in ~~strikethrough~~):

3.12.040 Salaries—Placer County sheriff's ordinance initiative.

A. The board of supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County sheriff's office, El Dorado County sheriff's office, and Sacramento County sheriff's office for each class of position employed by said agencies.

B. Effective January 1, 1977, and effective January 1st of each year thereafter the board of supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first period following January shall fix the average salary for each class of position in the Placer County sheriff's office at a level equal to the average of the salaries for the comparable positions in the Nevada County sheriff's office, El Dorado County sheriff's office and the Sacramento County sheriff's office.

C. As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:

1. ~~Undersheriff, assistant sheriff*, inspector, e~~C~~orporal, captain, sergeant, deputy, lieutenant.~~

D. The provisions of this chapter shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are not elected by popular vote.

~~* Assistant sheriff will be set at ten (10) percent below the undersheriff if no comparable class of position available.~~

EXHIBIT E

Questions & Answers

about Contract Negotiations between Placer County and the Deputy Sheriffs' Association

September 2020

Table of Contents

Background	2
Is the Board of Supervisors trying to defund police?	2
What is the "Deputy Sheriffs' Association" and who do they represent?	2
What are Placer County law enforcement officers paid?	2
How does the pay for Placer County deputies compare to that of other communities?	2
Does the County want to cut pay for deputies?	2
Why does the County want to make changes now?	3
Ongoing Negotiations, Offer Details	4
What is the County offering to the union (DSA)?	4
Will the County's offer make recruitment and retention of deputies more difficult?	4
How is "special pay" different from "base pay"?	4
Will the County offer cut "graveyard" pay in half? How about other special pays?	4
Will the County's offer result in slower response times when I need help?	5
Current Status of Negotiations	6
Is the County refusing to negotiate with the union (DSA)?	6
Measure F	7
Doesn't Measure F determine pay for deputies?	7
What is the effect of Measure F on the union's request to keep the status quo?	7
Why doesn't the County just cut other employee salaries instead?	7
What counties does Placer County compare to when evaluating compensation?	7
Retirement Benefits, Health Insurance and Contributions	8
Why is the County asking for deputies to pay more for retirement benefits?	8
Will the County continue its current contribution toward retirement benefits?	8
Is the County only offering one insurance plan?	8
What is the County offering to contribute towards health insurance?	8
What is the impact to deputies of the proposed health insurance contribution?	8
Retirees	9
Is the County trying to limit the health insurance options for retirees?	9

Questions & Answers

about Contract Negotiations between Placer County and the Deputy Sheriffs' Association

September 2020

Background

Is the Board of Supervisors trying to defund police?

No, public safety is one of the Board of Supervisor's top priorities.

The Board has annually demonstrated its support for law enforcement by increasing the amount of discretionary funding for the Sheriff's Office each year, including Fiscal Year 2020-21. Public Safety is the only county function that has experienced a material increase in countywide spending per capita over the last forty years.

What is the "Deputy Sheriffs' Association" and who do they represent?

The Deputy Sheriffs' Association (DSA) is the public employee union that represents the more than 250 sworn law enforcement officers employed by the offices of the Placer County Sheriff and District Attorney, including Deputy Sheriffs II and Sheriff Sergeants.

What are Placer County law enforcement officers paid?

The average total cost for a Placer County Deputy Sheriff II is more than \$200,000. The average total cost for a Placer County Sheriff's Sergeant is more than \$250,000.

How does the pay for Placer County deputies compare to that of other communities?

Placer County's total compensation of deputies is 18% higher than that of surrounding counties, and 17% higher than local cities like Auburn, Roseville, Rocklin, and Folsom. These numbers do not include the value of Placer County's fully funded retiree health program, which is a top-tier benefit compared to that of other agencies.

When considering salaries only, Placer County is 6% below the labor market. This low wage does not reflect the attractiveness of the rest of Placer County's generous compensation package and creates an obstacle to recruiting top-tier law enforcement professionals. The County's plan realigns the deputies' compensation structure to be more competitive in the market, while ensuring escalating costs do not inflate to an unsustainable level.

See page 4 for a breakdown of the County's offer.

Does the County want to cut pay for deputies?

The County is not proposing pay cuts for deputies. The County's offer is designed to keep paychecks whole, except for a 2% pre-tax contribution to retirement costs funded by the 5% increase deputies received in February 2020.

Questions & Answers

about Contract Negotiations between Placer County and the Deputy Sheriffs' Association

September 2020

Why does the County want to make changes now?

In addition to public safety, the Board of Supervisors makes prudent financial planning a top priority. To consider the future taxpayers of Placer County, the Board makes several financial decisions related to remaining fiscally sustainable. Such decisions include adequately funding a rainy-day fund or fully funding retiree health benefits, including our public safety retirees.

The continued growth of compensation costs in the Sheriff's Office is escalating more rapidly than county revenues. The County wants to prevent future costs from escalating to an unsustainable level.

Over the last twenty years, growth in deputy sheriff base salaries alone have outpaced the Consumer Price Index (CPI)¹ by over 30%, in addition to soaring pension costs.

Since March 2018, the County has explored options with the Deputy Sheriffs' Association to address these concerns.

The Board of Supervisors is fully committed to supporting the efforts of the Sheriff's Office to keeping our community safe - balanced with fiscal responsibility to future generations of Placer County residents.

¹CPI is the measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services.

Questions & Answers

about Contract Negotiations between Placer County and the Deputy Sheriffs' Association

September 2020

Ongoing Negotiations, Offer Details

What is the County offering to the union (DSA)?

The primary financial elements of the County's offer include:

- Employees will contribute an additional 2% of pay to their retirement benefits, funded by the 5.15% salary increase deputy sheriffs received in February 2020.
- Salaries will increase by 7%. Special pays for Peace Officer Standards and Training certificates will decrease by 7%. (See information about "special pays" below.)
- Other special pays that are currently a percentage of pay will be converted to a unique equivalent flat amount per incentive. Increases can be negotiated. (See information about "special pays" below.)
- The County will pay 80% of the health insurance premium plan most-selected by union members. Currently, the County pays 80% of *any* plan selected.
- Employees earning \$875 per month for working in Tahoe must have a residence within fifty driving miles of the station. Currently, employees stationed in Tahoe receiving this stipend do not have any residency requirement. This change would only apply to employees newly assigned to Tahoe.

Will the County's offer make recruitment and retention of deputies more difficult?

No, the higher salaries proposed in the County's offer will be more attractive to potential candidates. That, in addition to the County's top-end compensation package, generous retiree health program, and unparalleled quality of life, will allow Placer County to continue to attract and retain the best talent available in the law enforcement community.

How is "special pay" different from "base pay"?

The County offers pay, or incentives, for a variety of assignments, training, certificates, etc. in addition to a deputy's base pay. Examples include education incentive, special teams pay, detective premium, night shift differential, bilingual pay, and longevity pay.

Will the County offer cut "graveyard" pay in half? How about other special pays?

No, the intent of the County's offer is for employees to receive at least their current amount earned for special pays like night shift, or "graveyard," pay. Some union members would even experience an increase in these special pays.

Questions & Answers

about Contract Negotiations between Placer County and the Deputy Sheriffs' Association

September 2020

For example, union members currently assigned to the Investigations Division are paid a 5% detective premium. Although 28 of the 34 detectives are Deputy Sheriff IIs, the County is offering to set the flat incentive amount for detective premium at \$464 per month, which is equivalent to 5% of the higher Sheriff's Sergeant base pay (\$9,270 base monthly pay x 5% = \$464.) For those 28 Deputy Sheriffs working as detectives, the result is an additional \$75 per month.

Will the County's offer result in slower response times when I need help?

No, the budget of the Sheriff's Office is fully funded, and there are no proposed changes to the number of law enforcement personnel available to serve the community.

Questions & Answers

about Contract Negotiations between Placer County and the Deputy Sheriffs' Association

September 2020

Current Status of Negotiations

Is the County refusing to negotiate with the union (DSA)?

The County has engaged with the union in two rounds of good faith negotiations, most recently for more than fifteen months over ten meetings. Both parties have submitted, modified, and withdrawn proposals in an effort to reach agreement.

The County's most recent offer to the union included increases to four different compensation elements at the request of the union. These elements include Special Teams Pay, Stand-By Pay, Canine Pay, and Overtime Pay for court appearances.

The County will continue to abide by the rules of collective bargaining and looks forward to continued coordination with the union to resolve the impasse. The next step is for both parties to meet in mediation.

Questions & Answers

about Contract Negotiations between Placer County and the Deputy Sheriffs' Association

September 2020

Measure F

Doesn't Measure F determine pay for deputies?

Measure F, approved by Placer County voters in 1976, established that the minimum salary for various law enforcement positions will be equal to an average of salaries for comparable positions in the counties of El Dorado, Nevada, and Sacramento. The voters have also given the Board of Supervisors the authority to negotiate higher salaries, which is the case in the County's current proposed offer.

What is the effect of Measure F on the union's request to keep the status quo?

Over the last twenty years, Measure F has resulted in deputies receiving an average increase of nearly 4% every year, which has far exceeded CPI. When combined with special pays that are 45% above the market average and employee retirement contributions far below market average, total compensation costs for the union are unsustainable.

Why doesn't the County just cut other employee salaries instead?

Salaries for other employees are not subject to Measure F. The Board has approved wage increases for other employees that are in line with CPI. Additionally, other employees have negotiated to pay their full share of retirement contributions and are not eligible for all the special pays that apply to members of the deputies' union. As such, concerns about unsustainable cost escalation do not apply to other employees.

What counties does Placer County compare to when evaluating compensation?

Measure F specifies that Placer County will compare law enforcement salaries to those in the counties of El Dorado, Nevada, and Sacramento. Additionally, when evaluating the labor market, Placer County surveys several other counties with equivalent or higher costs of living, as well as cities in our region.

Questions & Answers

about Contract Negotiations between Placer County and the Deputy Sheriffs' Association

September 2020

Retirement Benefits, Health Insurance and Contributions

Why is the County asking for deputies to pay more for retirement benefits?

A survey of surrounding cities and counties shows that the minimum percentage of pay law enforcement employees contribute to their pension benefits is 9%. The minimum amount Placer County deputies contribute is 5%.

Will the County continue its current contribution toward retirement benefits?

Pensions will continue to be the most significant benefit cost for the County. For employees currently contributing 5%, the County contributes over 47% of pay. If unchanged, that percentage is projected to grow to over 53% within four years. An additional 2% contribution from employees will only partially defray the anticipated escalation in County costs.

Is the County only offering one insurance plan?

The County offers a total of eleven health insurance plan options to union members. There is no proposed change to the number of plans available and any employee is able to select the health insurance plan that they feel meets their individual and family needs.

What is the County offering to contribute towards health insurance?

Currently, the County pays 80% of the cost of ten different plan premiums. In its offer, the County proposes to limit its contribution to 80% of the current most widely-used plan by union members, which is Kaiser Permanente.

The County recognizes that not all plans are available in all locations, which is one reason the County pays an additional \$875 per month to union employees assigned to work in Tahoe. In further recognition of Tahoe employees, the County has offered to contribute 80% of the most widely-used plan selected by employees assigned to work in that area, which is currently the Police Officers Research Association of California (PORAC) Anthem Blue Cross plan.

What is the impact to deputies of the proposed health insurance contribution?

If no employees made changes to their plan selections, 58% would experience no change in cost under the County's proposal. For others, the impact would be modest because 70% of the plans currently selected by union members have premium costs within 15% of the most popular plan in their area.

Questions & Answers

about Contract Negotiations between Placer County and the Deputy Sheriffs' Association

September 2020

Retirees

Is the County trying to limit the health insurance options for retirees?

No, retirees can choose their health plan at Open Enrollment each year and will continue to have access to all the plan options.

Retirees receive up to the same County contribution toward their health insurance costs that active employees receive. If the deputies' union negotiates a different contribution from the County, retirees will also receive contributions based on what is negotiated.

EXHIBIT F

DAVID P. MASTAGNI
JOHN R. HOLSTEDT
CRAIG E. JOHNSON
BRIAN A. DIXON
STEVEN W. WEITY
STUART C. WOO
DAVID E. MASTAGNI
RICHARD J. ROMANSKI
PHILIP R.A. MASTAGNI
KATHLEEN N. MASTAGNI STORM
SEAN D. HOWELL
WILLIAM P. CREGER
SEAN D. CURRIN
DANIEL L. OSIER
KENNETH E. BACON
JOHN H. BAKHIT
GRANT A. WINTER
JOSHUA A. OLANDER
TASHAYLA D. BILLINGTON
HOWARD A. LIBERMAN
ZEBULON J. DAVIS
DOUGLAS T. GREEN
SETH A. NUNLEY
MARK E. WILSON

Sacramento Office
1912 I Street
Sacramento, CA
95811
(916) 446-4692
Fax (916) 447-4614
Tax ID #94-2678460



All Correspondence to Sacramento Office
www.mastagni.com

May 10, 2021

Rancho Cucamonga Office
(909) 477-8920
Chico: (530) 895-3836
San Jose: (408) 292-4802
Stockton: (209) 948-6158
Los Angeles: (213) 640-3529

MELISSA M. THOM
JASON M. FWERT
JONATHAN D. CHAR
BRETT D. BEYLER
VANESSA A. MUNOS
KIMBERLY A. VELAZQUEZ
JOSEPH A. HOFFMANN
WILLIAM M. CLARK
MICHAEL P. R. REED
JIZELI K. LOPEZ
CHERYL CARLSON
ANISH K. SINGH
JOEL M. WEINSTEIN
TAYLOR DAVIES-MAHAFFEY
NATHAN SENDEROVICH
SCOTT P. THORNE
SAMUEL S. SIAVOSHI
BEHNAM M. PARVINIAN
DALBIR K. CHOPRA
CARLY M. MORAN
DAVID R. DEMURJIAN
R. CRAIG LUSIANI
DYLAN C. MARQUES
RICKY E. MARTORANA

Via U.S. & Electronic Mail

Che Johnson, Attorney for Placer County
Liebert Cassidy Whitmore
400 Capitol Mall, Suite 1260
Sacramento, California 95814
cjohnson@lcwlegal.com

Re: Response to County's April 20, 2021 Rejection of DSA Counter Offer to Maintain Status Quo Pending Resolution of the Legal Dispute over Section 3.12.040.

Dear Mr. Johnson:

This letter responds to your correspondence on April 20, 2021. The County advised it rejected the Placer County Deputy Sheriff's Association's ("DSA") counter-offer to maintain the status quo pending resolution of the legal dispute over section 3.12.040's legality. The County indicated its belief that further negotiations would be futile and again asserted its demand to repeal section 3.12.040 without submitting a measure to the Placer County voters. It appears the County is unwilling to make any movement from this position.

The DSA believes the issue over section 3.12.040 is inextricably intertwined with the parties' current factfinding before Arbitrator Harris. During factfinding, the County admitted it was not making an inability to pay argument and could afford raises consistent with section 3.12.040. Thus, if the County is unwilling to move from its initial proposal to unilaterally repeal section 3.12.040, the DSA proposes the parties submit the issue to the current factfinding panel.

Please advise whether the County is agreeable to the DSA's proposal. Feel free to contact me at tbillington@mastagni.com or (916) 318-4605 if you have any questions or concerns.

Respectfully Submitted,

MASTAGNI HOLSTEDT, A.P.C.

TASHAYLA D. BILLINGTON
Attorney at Law

cc: Noah Frederito
Brett D. Holt
Kate Sampson

May 13, 2021

VIA EMAIL

Ms. Tashayla Billington
Mastagni Holstedt
1912 I Street
Sacramento, CA 95811

Re: County of Placer / Placer DSA - Response to DSA's May 10, 2021 Request for Fact-Finding
Client-Matter: PL060/021

Dear Ms. Billington:

I'm responding to your May 10 letter. If the DSA agrees that the parties have reached an impasse in these negotiations, the County is amenable to requesting that the issue be submitted to the current fact-finding panel for PERB Impasse number SA-IM-220-M. Of course, Ms. Harris and the panel would have to agree to include this additional issue as it was outside of the originally assigned matter. The County would also like to confirm that this additional item will not unduly delay the issuance of the panel's recommendations.

Accordingly, I believe we should contact the panel regarding this new potential issue and thereafter request PERB officially assign this matter to Ms. Harris as the neutral fact-finder. Further, we should also stipulate that no additional hearing dates, testimony, or arguments are required. If I have incorrectly interpreted your May 10 letter or the intent of the DSA, please feel free to contact me directly.

Very truly yours,

LIEBERT CASSIDY WHITMORE



Che I. Johnson

CIJ:

DAVID P. MASTAGNI
JOHN R. HOLSTEDT
CRAIG E. JOHNSON
BRIAN A. DIXON
STEVEN W. WELTY
STUART C. WOO
DAVID E. MASTAGNI
RICHARD J. ROMANSKI
PHILLIP R.A. MASTAGNI
KATHLEEN N. MASTAGNI STORM
SEAN D. HOWELL
WILLIAM P. CREGER
SEAN D. CURRIN
DANIEL L. OSIER
KENNETH E. BACON
JOHN H. BAKHIT
GRANT A. WINTER
JOSHUA A. OLANDER
TASHAYLA D. BILLINGTON
HOWARD A. LIBERMAN
ZEBULON J. DAVIS
DOUGLAS T. GREEN
SETH A. NUNLEY
MARK E. WILSON

Sacramento Office
1912 I Street
Sacramento, CA
95811
(916) 446-4692
Fax (916) 447-4614
Tax ID #94-2678460



Rancho Cucamonga Office
(909) 477-8920

Chico: (530) 895-3836
San Jose: (408) 292-4802
Stockton: (209) 948-6158
Los Angeles: (213) 640-3529

MELISSA M. THOM
JASON M. FWERT
JONATHAN D. CHAR
BRETT D. BEYLER
VANESSA A. MUNOS
KIMBERLY A. VELAZQUEZ
JOSEPH A. HOFFMANN
WILLIAM M. CLARK
MICHAEL P. R. REED
JIZELL K. LOPEZ
CHERYL CARLSON
ANISH K. SINGH
JOEL M. WEINSTEIN
TAYLOR DAVIES-MAHAFFEY
NATHAN SENDEROVICH
SCOTT P. THORNE
SAMUEL S. SIAVOSHI
BEHNAM M. PARVINIAN
DALBIR K. CHOPRA
CARLY M. MORAN
DAVID R. DEMURJIAN
R. CRAIG LUSIANI
DYLAN C. MARQUES
RICKY E. MARTORANA

All Correspondence to Sacramento Office
www.mastagni.com

May 14, 2021

Via U.S. & Electronic Mail

Che Johnson, Attorney for Placer County
Liebert Cassidy Whitmore
400 Capitol Mall, Suite 1260
Sacramento, California 95814
Email: cjohnson@lcwlegal.com

Re: Response to County's May 13, 2021 Correspondence

Dear Mr. Johnson:

This letter responds to your correspondence on May 13, 2021. The DSA is agreeable to place the matter before the factfinding panel for PERB Impasse number SA-IM-220-M. We agree that no additional hearing dates, testimony, or arguments are required.

We can coordinate dates and times to contact the factfinding panel. Please provide your availability. Feel free to contact me at tbillington@mastagni.com or (916) 318-4605 if you have any questions or concerns.

Respectfully Submitted,

MASTAGNI HOLSTEDT, A.P.C.

TASHAYLA D. BILLINGTON
Attorney at Law

cc: Noah Frederito
Mark B. Salvo
Brett D. Holt
Kate Sampson
David E. Mastagni

From: Catherine Harris <charrisdisputeresolutions@att.net>
Sent: Thursday, May 20, 2021 8:27 PM
To: Tashayla D. Billington; 'Jason Farren'; JChristenson@placer.ca.gov
Cc: David E. Mastagni; 'Che I. Johnson'
Subject: RE: Factfinding Panel SA-IM-220-M [DRAFT]

Dear Counsel,

The Panel met this evening.

As part of our recommendation for an overall settlement of disputed contract terms, we will be addressing Measure F.

Catherine Harris, Panel Chair
On behalf of the entire Panel

From: Tashayla D. Billington [mailto:tbillington@mastagni.com]
Sent: Friday, May 14, 2021 8:56 PM
To: Catherine Harris <charrisdisputeresolutions@att.net>; Jason Farren <jfarren@placerdsa.org>; JChristenson@placer.ca.gov
Cc: David E. Mastagni <davidm@mastagni.com>; 'Che I. Johnson' <CJOHNSON@lcwlegal.com>
Subject: Factfinding Panel SA-IM-220-M [DRAFT]

Dear Panel,

The County and DSA have agreed to jointly request the Panel issue of finding on whether the County can repeal section 3.12.040 of the Placer County Code, which Codifies the Measure F salary formula. The County has proposed repealing the ordinance in its entirety. The DSA proposed the parties maintain the status quo pending a legal resolution over the dispute.

We would like the Panel to issue a finding. The County however, has requested confirmation that the Panel does not believe rendering a decision would increase the time to issue the factfinding report by more than 30 days.

Please advise whether the Panel is agreeable to issue findings on this matter.

Sincerely,

Tashayla D. Billington | Senior Associate

 **MASTAGNI HOLSTEDT, A.P.C.**

Labor and Employment Department

1912 I Street, Sacramento, CA 95811

Main: (916) 446-4692 | Fax: (916) 447-4614

Direct: (916) 318-4605 | Cell: (916) 212-1509

CONFIDENTIALITY NOTICE - This e-mail message, including any attachments, is a private communication sent by a law firm, Mastagni Holstedt, A.P.C., and may contain confidential, legally privileged information meant solely for the intended recipient. If you are not the intended recipient, any use, distribution, or copying of this communication is strictly prohibited. Please notify the sender immediately by replying to this message, then delete the e-mail and any attachments from your system. Thank you.

EXHIBIT G

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FACT FINDING PROCEEDINGS
PURSUANT TO MEYERS-MILIAS BROWN ACT

In the matter of a controversy between

COUNTY OF PLACER,

Employer,
and

**PLACER COUNTY DEPUTY
SHERIFFS' ASSOCIATION,**

Union,

Re: Successor to 2015-2018 MOU.

**REPORT OF FACTFINDING
PANEL AFTER HEARING**
Case No. SA-IM-220-M

Chairperson: Catherine Harris, Esq.
Arbitrator • Mediator
Sacramento, California

Union Panelmember
Sgt. Jason Farren
Placer County Sheriffs
Auburn, California

Employer Panelmember
Jane Christenson
Assistant County Executive
Auburn, California

For the Union: David E. Mastagni, Esq.
Tashayla D. Billington, Esq.
Mastagni Holstedt, APC
Sacramento, CA

For the County: Che I. Johnson, Esq.
Liebert Cassidy Whitmore
Sacramento, California

REPORT OF THE FACTFINDING PANEL

Background

This factfinding arises out of an impasse in negotiations involving an assortment of economic and non-economic issues. Negotiations for a successor agreement to the 2015-2018 MOU began on June 24, 2019. As of August 27, 2020, the parties had met for negotiations on nine occasions culminating in a last best and final offer (LBFO) from the County on July 21, 2020. The County has characterized the LBFO, which increased base

1 salary by 7% and reduced POST incentive pay by 7%, as an offer designed to minimize the
2 adverse impact on the compensation of current employees while achieving long-term cost
3 savings for the County. This offer was rejected by the Union based in large part on the
4 Union's concerns that its membership would not approve any inroads into the continuing
5 viability of Measure F (a local salary ordinance), as well as a concern that payment of base
6 salary over and above what Measure F calls for might result in a challenge by taxpayer
7 groups.

8 On August 27, 2020, the County declared impasse and requested an impasse
9 meeting. On August 31, 2020, the Union informed the County that it was the Union's
10 position that the LBFO contained several illegal terms making it improper to declare
11 impasse.¹ On October 20, 2020, the County verbally notified the Union that it was
12 withdrawing the LBFO and seeking to resume bargaining with the Union based on what the
13 County has described as "significant steps to modify its proposals" during the course of a
14 confidential mediation. The following day, on October 21, 2020, the Union filed its request
15 for factfinding. The Union then declined a request by the County to hold factfinding in
16 abeyance. After considering the positions of both parties, PERB made an administrative
17 determination that the Union had met the procedural requirements to trigger factfinding. As
18 reflected in PERB's Administrative Determination dated October 27, 2020, PERB made no
19 determination of impasse. Since that time, the parties have continued their negotiations
20 while also preparing for this factfinding.²

21 The positions of the parties appear to have hardened after the County notified the
22

23 ¹ The Union claims that the County drove the negotiations to impasse by unlawfully
24 insisting that the Union bargain over permissive subjects. This allegation is part of a pending unfair
25 labor practice charge filed by the Union. By the time of the factfinding hearing, the County had also
26 charged the Union with conduct amounting to an unfair labor practice. As further explained herein,
the panel recommends that these charges and countercharges be dismissed as part of an overall
settlement of the contract.

27 ² On November 24, 2020, the parties agreed to waive statutory timelines to complete the
28 instant factfinding.

1 Union on February 11, 2021 of its intent to officially repeal Measure F and offered the
2 Union an opportunity to meet and confer over any foreseeable effects its decision may have
3 on matters within the scope of representation. The County informed the Union, in writing,
4 that it did not intend to take any action to implement any decision prior to conclusion of
5 negotiations on this subject; however, the issue of the viability of the Measure F formula,
6 applied annually to members of the bargaining unit (irrespective of what is required by the
7 terms of the bargaining agreement), has remained the single biggest obstacle to reaching
8 agreement.

9 **The Statutory Factors**

10 Under the MMBA, the sole responsibility of the panel is to make findings of fact and
11 recommend the terms of a settlement of the parties' contract dispute in conformity with the
12 statutory factors set forth in the Meyers-Milias Brown Act (MMBA).³ Government Code
13 section 3505.4 sets forth the following factfinding criteria to be considered as part of this
14 impasse resolution procedure:

- 15 (1) State and federal laws that are applicable to the employer.
- 16 (2) Local rules, regulations, or ordinances.
- 17 (3) Stipulations of the parties.
- 18 (4) The interests and welfare of the public and financial ability of the public
19 agency.
- 20 (5) Comparison of the wages, hours, and conditions of employment of the
21 employees involved in the factfinding proceeding with the wages, hours and
22 conditions of employment of other employees performing similar services in
23 comparable public agencies.
- 24 (6) The consumer price index for goods and services, commonly known as the
25 cost of living.
- 26 (7) The overall compensation presently received by the employees, including
27 direct wage compensation, vacations, holidays, and other excused time,
28 insurance and pensions, medical and hospitalization benefits, the continuity

26 ³ Government Code section 3505.5 (a) directs the panel to make advisory findings of fact
27 and to recommend terms of settlement. The panel has examined the record in light of all of the
28 statutory factors while focusing on those factors which are most relevant to the determination of
each of the disputed issues.

1 and stability of employment, and all other benefits received.

2 (8) Any other facts, not confined to those specified in paragraphs (1) through (7),
3 inclusive, which are normally or traditionally taken into consideration in
making the findings and recommendations.

4 The statute clearly provides that the above-listed factors must be considered by factfinders in
5 arriving at their findings and recommendations but, beyond that, provides no guidance.⁴ The
6 MMBA does not rank the factors in the order of their importance nor does it restrict the
7 factfinding panel to choosing between competing proposals.

8 **The Factfinding Hearing**

9 An evidentiary hearing was held on March 8 and 9, 2021 at Auburn, California. By
10 agreement of the parties, the proceedings were transcribed by a certified shorthand reporter
11 and copies of the transcript were provided to the factfinding panel and the parties. At the
12 hearing, the parties were afforded a full opportunity to present testimonial⁵ and
13 documentary⁶ evidence, to cross-examine each other's witnesses and to make argument to
14 the factfinding panel. All post-hearing briefs had been received by the panel as of April 14,
15 2021 at which time the panel began its deliberations.

16 During the course of the deliberations, i.e., on May 14, 2021, the panel received a
17 joint request from the County and the Union asking the panel to address the issue of
18 Measure F as long as, in doing so, consideration of this issue would not unduly prolong the
19 proceeding. On May 20, 2021, the panel agreed to respond to the request. The panel's

20
21 ⁴ In its presentation at the hearing, the County identifies factors (4), (5), (6) and (7) as the
22 relevant factors for purposes of this factfinding. The Union identifies the same factors and adds
23 factor (3), i.e., arguing that the 44-year history of adopting the local ordinance as part of the contract
24 is an implied stipulation of the parties and that, as such, it should be afforded some deference. The
Union also implicates factors (1) and (2) when it argues that the County's salary proposal is illegal
under both the MMBA and the local ordinance.

25 ⁵ The County presented the testimony of Daniel Chatigny and Kate Sampson. The Union
26 presented the testimony of Robert Brownstein, Mark Schniepp, Edward Bonner, Devon Bell,
Morgan Gire, Jeff Swearingen, Mark Salvo, and Noah Frederito.

27 ⁶ During the course of the hearing, the panel received the following documents into
28 evidence: Joint Exhibits "1" through "28," County Exhibits "1" through "13" and Union Exhibits "1"
through "60."

1 agreement to confront the Measure F issue head on and to make a recommendation as to
2 how the issue should be resolved resulted in multiple deliberation sessions.

3 **Evidence Regarding the Financial Condition of the County**

4 In addressing statutory factor (4) [the interests and welfare of the public and financial
5 ability of the public agency], the County presented evidence that it is projecting what it
6 describes as “significant fiscal challenges” in the next five to ten years due to escalating
7 costs associated with the Measure F formula. With regard to the County’s operating funds,
8 salary and benefits are the largest single category of expense (36%). Public protection is
9 also the largest portion of the operating and capital funds expenditures by service systems.
10 In its presentation, the County highlights the fact that per capita operating costs for public
11 protection have increased significantly since 1977 (the year that Measure F was enacted),
12 and most dramatically in the past five years, when compared to other expenditures.

13 The County projects negative ending fund balances for the Public Safety Fund
14 beginning in 2025 (\$2 million) and increasing with each passing year as follows: 2026 (\$6.5
15 million), 2027 (\$9 million), 2028 (\$11.7 million), 2029 (\$14.8 million) and 2030 (\$18.6
16 million). While acknowledging that the General Fund is projected to grow, the County
17 also projects that these increases will be absorbed by the Public Safety Fund, i.e., likely
18 resulting in a negative General Fund balance by 2025. At this point, according to Finance
19 and Budget Operations Director Daniel Chatigny, the County will be forced to either reduce
20 costs (through layoffs) or cut services to the general public.

21 The Union challenges this interpretation of the County’s financial condition. Relying
22 on the testimony of two economic experts (Bob Brownstein⁷ and Mark Schniepp⁸), it
23

24 ⁷ Bob Brownstein formerly served as chief of staff for the Santa Clara County supervisors
25 for 12 years with responsibility for all public policy issues, including fiscal policy. Subsequently, he
26 served as Budget Director for the City of San Jose for 8 years. He currently serves as Strategic
Advisor for Working Partnerships USA, a nonprofit organization that works on local public policy.

27 ⁸ As the current Director of the California Economic Forecast, Mark Schniepp prepares
28 economic analysis and county level forecasts for the CA Department of Transportation, Kaiser
Permanente, Blue Shield, CA State Auditor’s Office and Southern CA Association of Governments.

1 argues that the County continues to outperform the Measure F comparator counties with a
2 more resilient economy, a quicker rebound from the pandemic, lower unemployment, a
3 better housing market and quickly recovering sources of revenue. Relying on the testimony
4 of Mark Schniepp, the Union questions the accuracy of the County's projections (because
5 the accuracy of projections declines with each passing year and ten-year projections may be
6 entirely speculative) and the rationale and function of the Public Safety Fund (because the
7 County provided no evidence as to what percentage of the Public Safety Fund goes to
8 funding the MOU at issue herein). The Union also notes that the County admits that the
9 Public Safety Fund is used for three different law enforcement departments and that a
10 negative ending fund balance for the Public Safety Fund would not necessarily signify a
11 General Fund deficit.

12 **The Issue of Base Salary**

13 *The County's Position*

14 For more than 40 years, the base salaries of members of the Union's bargaining unit
15 have been set on a yearly basis by application of the Measure F formula. Measure F,
16 enacted by Placer County voters in 1976, was codified in 1977 as Placer County Code
17 Section 3.12.040 (Placer County Sheriff's Ordinance Initiative). The ordinance requires the
18 County to implement annual salary adjustments to members of the Union's bargaining unit
19 by 1) determining the maximum salaries for comparable classes of positions in El Dorado,
20 Nevada and Sacramento Counties; 2) calculating the average maximum salaries for those
21 three agencies for each classification; and 3) setting the salary of the Placer County
22 comparable classifications at a level equal to that average. This salary formula has been an
23 integral part of the parties' negotiations during multiple contract cycles and continues as
24 part of the current contract, i.e., the 2015-2018 MOU.⁹

25
26 ⁹ At the factfinding hearing, the Union presented evidence that on January 12, 2021, the
27 Board adopted a resolution modifying section 3.12.040 to remove all managers from its coverage.
28 The Union argues that, in so doing, the Board of Supervisors re-adopted the ordinance to apply the
Measure F formula to bargaining unit members. Similarly, the Union notes that the Board of
Supervisors, since 2015, has used the same comparator counties to set their own compensation.

1 The County acknowledges that, for the first time since the enactment of Measure F,
2 it now seeks to change the status quo by eliminating the Measure F formula from the
3 parties' MOU. The County's stated purpose in seeking this fundamental change is to avoid
4 escalating costs, i.e., described by County Finance and Budget Operations Manager
5 Chatigny as costs that will become "fiscally unsustainable" at some future time within the
6 next five to ten years. As an alternative to the Measure F formula, the County now proposes
7 a three-year contract with a 4.0% increase effective the first full pay period of February
8 2021, a 4.25% increase effective the first full pay period of February 2022, and a 4.5%
9 increase effective the first full pay period of February 2023 (thus making the base salary of
10 bargaining unit members *solely* a product of collective bargaining and no longer a matter
11 governed by the provisions of the County's existing salary ordinance). The estimated cost
12 of the County's salary proposal is 5.4 million dollars and is expected by both parties to
13 exceed the base salary increases that would occur with the traditional application of the
14 Measure F formula.

15 In seeking this change, the County asserts its statutory rights under the MMBA to
16 negotiate base salaries.¹⁰ The County also claims that the MMBA supersedes Measure F
17 and that the continued application of Measure F violates the charter, passed in 1980, which
18 gives the Board of Supervisors the right to set employee compensation. The County takes
19 the position that while it was free to agree to the Measure F formula during contract
20 negotiations, in so doing, it did not validate what it now regards as a void and
21 unconstitutional ordinance preempted by the MMBA and precluded by the charter.¹¹

22 ***The Union's Position***

23 The Union claims that the County cannot rely on a projected *future* deficit over a

24
25 ¹⁰ The MMBA also gives the County the right to implement its last and final offer after an
26 impasse in bargaining and exhaustion of impasse procedures; however, the Union may challenge
27 implementation based on its position that the Employer's salary proposal is illegal, thus giving rise
28 to still another dispute in what has been a very contentious process.

¹¹ In the period leading up to voter rejection of two initiatives to repeal Measure F in 2002
and 2007, the County did *not* take the position that Measure F is illegal.

1 five to ten-year period as a means of exacting *current* concessions from the Union,
2 especially where the County is enjoying robust growth and development compared to other
3 northern California counties (including the comparator counties referenced in the salary
4 ordinance). Besides arguing that the County has failed to carry its burden of establishing an
5 economic justification for departing from the status quo, the Union also notes that the
6 Measure F salary formula, endorsed by both prior Sheriff Edward Bonner and current
7 Sheriff Devon Bell, has historically been an essential feature of the Placer County Sheriff's
8 recruitment program. According to Union witnesses, the yearly application of the salary
9 ordinance has enabled the County to attract and retain highly qualified officers.¹²

10 The Union emphasizes that the certainty afforded by yearly increases that are
11 independent of the bargaining process¹³ is extremely attractive to officers contemplating a
12 lateral transfer to Placer County from another jurisdiction and that the elimination of
13 Measure F from the County Code and the contract will pave the way for deep and lasting
14 cuts after the agreement at issue in this factfinding expires. The Union seeks continuation
15 of the existing wage formula, as well as a joint effort by the parties to submit a measure to
16 the voters that would repeal the local ordinance and make the Measure F formula a part of
17 the Charter. To further enable the parties to submit a measure to the voters (and to give the
18 parties more time before they return to the bargaining table), the Union seeks a five-year
19 contract term.¹⁴

21
22 ¹² Consistent with the Union's position, the County's HR Director Kate Sampson testified
23 that HR does not believe that the County currently has any recruitment or retention issues and that
24 senior members of the bargaining unit are not leaving the County. In the panel's judgment, how the
elimination of the salary ordinance would impact recruitment and retention is a matter of speculation
by both parties.

25 ¹³ The significance of this point is underscored by the fact that even where a contract has
26 expired and no successor agreement has been negotiated, unit employees continue to receive the
27 yearly increases provided for by local ordinance, e.g., the bargaining unit received a February 2021
increase even though the 2015-2018 MOU had expired and no new agreement had been reached.

28 ¹⁴ The County seeks a three-year contract term.

1 **The Speciality Pay Issues**

2 As noted by the County's Director of Human Resources Kate Sampson, when
3 viewing the December 2020 salaries for the enumerated Measure F counties, the Deputy
4 Sheriff II classification appears to be behind but, when viewing total compensation, the
5 bargaining unit is 21% above comparable agencies. The County has characterized this as a
6 compensation model *that keeps base wages artificially low while over-inflating specialty*
7 *pays*. In order to remedy escalating costs associated with specialty pays, the County
8 proposes that percentage-based specialty pays be converted to flat dollar amounts as follows:

9 **County Proposal 8 - Bilingual Pay**

- 10
 - Change 5% of base salary to \$464.00 per month
 - Estimated cost of proposal 8: \$5372

12 **County Proposal 9 - Training Officer Pay**

- 13
 - Change 5% of base salary to \$389.00 per month
 - Estimated Cost Savings Proposal 9: \$57.00

15 **County Proposal 10 - Detective Division Premium**

- 16
 - Change 5% of base salary to \$510.00 per month

17 Estimated Cost of Proposal 10: \$43,597.00

18 **County Proposals 11 - Career and Education Incentive**

19 Intermediate Post - Change 12% of base salary to:

20 Deputy Sheriff I - \$735 per month.
21 Deputy Sheriff II - \$1,030 per month.
22 Sheriff's Sergeant - \$1,225 per month.
23 Investigator - District Attorney - \$1,285 per month.
Investigator - Welfare Fraud - \$1,285 per month.
Investigator - Welfare Fraud Supervising - \$1,385 per month.

24 Estimated Cost for Intermediate Post: \$62,061

25 ○ Advanced Post - Change 17% of base salary to:

- 26
 - Deputy Sheriff I - \$1040 per month.
 - Deputy Sheriff II - \$1,460 per month.
 - Sheriff's Sergeant - \$1,735 per month.
 - Investigator - District Attorney - \$1,825 per month.

- Investigator-Welfare Fraud - \$1,825 per month.
- Investigator – Welfare Fraud Supervising - \$1,960 per month.
- Estimated Cost Advanced Post: \$275,849¹⁵

The County takes the position that its proposals to convert percentage-based pays to flat dollar amounts will help put an end to escalating costs, cure the alleged defect in the Measure F formula, make it easier for the County to budget, and provide an immediate increase to members of the bargaining unit. To that end, the County proposes to convert percentages to set dollar amounts equal to 10% above the current amount that a qualified bargaining unit member would receive at the top step of the salary range.

In defending the status quo (providing for special pays as a percentage of base salary), the Union claims that the County has failed to establish an economic justification that would warrant converting percentage-based pays to flat amounts. Notwithstanding these concerns, the Union is agreeable to converting incentives for POST pay to flat dollar amounts (with increases as shown below):

POST Intermediate Certificate:

- Deputy Sheriff I - \$755 per month.
- Deputy Sheriff II - \$1060 per month.
- Sheriff's Sergeant - \$1,260 per month.
- Investigator – District Attorney - \$1320 per month.
- Investigator-Welfare Fraud - \$1,320 per month.
- Investigator – Welfare Fraud Supervising - \$1420

POST Advanced Certificate:

- Deputy Sheriff I - \$1,070 per month.
- Deputy Sheriff II - \$1500 per month.
- Sheriff's Sergeant - \$1,780 per month.
- Investigator District Attorney - \$1,870 per month.
- Investigator-Welfare Fraud - \$1,870 per month.

¹⁵ The County also seeks to continue the status quo with respect to the payment of \$100 per pay period for an AA degree, \$125 per pay period for a BA, and \$175 per pay period for a Masters Degree.

- 1
- 2 • Investigator – Welfare Fraud Supervising - \$2010 per month.¹⁶

3 Under the Union’s final proposal, the above incentive amounts are not cumulative or
4 compounded and employees will receive only one rate of incentive pay for POST
5 certification. Additionally, the Union also seeks to convert the flat dollar amounts for
6 educational incentive to percentage pays as follows: 3% per pay period for an AA degree,
7 4% per pay period for a BA and 5% per pay period for a Masters Degree. The Union takes
8 the position that the savings attributed to implementing the Union’s proposal regarding base
9 salaries can be reallocated to its proposed educational incentive program.

10 The Union also makes the following major points with respect to the various
11 categories of special pay:

- 12 • Only small segments of the unit receive bilingual pay or training pay (as
13 reflected above in the amount of savings projected by the county).
- 14 • The flat amount conversions, while providing a slight increase in the first
15 year of the contract, would erode over time to the detriment of the unit.
- 16 • The County’s proposals for flat amount special pays fails to establish any
17 substantial savings during the term of the successor contract which is the
subject of this factfinding.

18 For these reasons, the Union claims that the County has not carried its burden of justifying a
19 change in the status quo.

20 **County Proposals 12- Night Shift Differential**

- 21 ○ Change 7.5% of base salary to \$4.41 per hour.

22 The County proposes that this change be incorporated into the existing language of Section
23 8.11 (Shift Differential). This proposal was unacceptable to the Union as evidenced by the
24 testimony of Kate Sampson who stated that the Union’s negotiator Mark Salvo was ready to
25

26 _____

27 ¹⁶ The Union proposes these adjustments to reflect “the Measure F raise effective February
28 2021” to insure that its members do not receive an immediate pay cut (when compared to the terms
of the existing contract).

1
2 take the County's December 8, 2020 package proposal to the membership for a vote *if* the
3 County would withdraw its demands for elimination of Measure F (clearly the paramount
4 issue here), the night shift proposal was *not* included, and the proposed flat amount pays
5 were further escalated beyond the amount then offered to reflect any Measure F increases in
6 effect as of February of 2021 (as reflected in the Union's current POST pay proposal).

7 The Union additionally argues that the factfinding panel should give great weight to
8 the settlement of a pending grievance involving the night shift, signed by the County on
9 March 16, 2017, which contains the following language: "The parties agree that during
10 successor negotiations the language in Section 8.11 may be entirely replaced with
11 Attachment A (to the settlement agreement) subject to the mutual approval of the parties." ¹⁷
12 While admitting that the language used by the parties implies "discretion," the Union
13 proposes that the current contract language should be continued and that Attachment A
14 should be included in the MOU as a side letter.

15 **The County's Longevity Pay Proposal**

16
17 County proposal 14 adds a single sentence to Section 8.12, subsection a (1). The
18 proposed new language reads as follows: "This special compensation shall not be reportable
19 to CalPERS." The Union's counterproposal seeks increases in longevity pay and does not
20 incorporate the County's proposed new language.

21 **Tahoe Branch Assignment Pay**

22 Bargaining unit members who are assigned to the Lake Tahoe area receive a
23 compensation incentive of \$875.00 per month to offset the increased costs associated with
24 the cost of living in the Lake Tahoe area. The County proposes various clarifying
25

26
27 ¹⁷ The un rebutted testimony of Mark Salvo establishes that the parties had an understanding
28 that the side letter (Attachment A) would resolve the parties' dispute about payment of night shift
differential going forward into the next contract.

1
2 provisions including a requirement that to be eligible for Tahoe Branch assignment pay,
3 employees must have a secondary dwelling within 50 driving miles of the Placer County
4 Sheriff's Burton Creek substation.¹⁸ The Union proposes to substitute "60 air miles" in lieu
5 of "50 driving miles." The County argues that its proposal is sufficient insofar as it allows
6 employees with a residence in Reno and Sparks to receive the incentive, as shown on a map
7 that was part of the County's presentation. The Union seeks a geographically broader
8 application of the incentive pay to allow its members more flexibility in selecting schools
9 and housing, i.e., noting that additional compensation helps employees with expenses such
10 as snow tires, chains, and vehicles suitable for inclement weather.

11 **The County's Proposals to Control Benefit Costs**

12 *Employee CalPERS Contributions*

13
14 As noted by the County in post-hearing brief, County proposals 15 and 16 are the
15 only proposals that result in immediate cost savings to the County. County proposal 15
16 proposes a gradual realignment that will require classic or tier 1 employees to fund their full
17 share of retirement contributions. Presently, the County is paying some of the "Employer
18 Paid Member Contribution (EPMC)" on behalf of tier 1 employees. This is in contrast to
19 Sacramento County (one of the Measure F counties) where employees pay the entire EPMC,
20 as well as a portion of the employer contribution. In support of this proposal, the County
21 presented evidence that, based on reduced investment returns to PERS, the County is
22 projecting its total yearly PERS contributions to grow from \$92 million in 2021 to \$112
23 million in 2030. The County estimates yearly savings at \$155,000.00, or 0.36% of salary.
24
25
26

27 ¹⁸ The existing MOU contains no requirement that the employee must have a secondary
28 dwelling; however, the Union agreed to the new requirement during the course of bargaining
assuming that the County would accept its version of an appropriate radius, i.e., 60 air miles.

1
2 The Union rejects this proposal based on its claim that the County has not
3 demonstrated a need to reduce CalPERS contributions for tier 1 members. In support of this
4 claim, the Union cites the testimony of HR Director Kate Sampson that, at one point
5 during the negotiations, the County had expressed a willingness to drop the retirement
6 contribution proposal if cost savings could be achieved through other means.

7 ***County Contributions to Health Care***

8 The County proposes to change its contribution from the current contribution of
9 80% of the total health care premium for any health plan offered by the County (except
10 PERS Care) to 80% of the PORAC plan. At the hearing, the County made a presentation
11 showing that this would generate yearly savings of \$255,357 or 0.60% of salary.

12 The Union withdrew its request that the County pay 20% of any available plan and
13 now proposes to maintain the status quo. The Union opposes the change in the status quo on
14 the grounds that it has an interest in maintaining a variety of plans with an 80/20 split due to
15 the high costs of health services and lack of coverage options in the Tahoe region.

16
17 **The County's Proposals Regarding Dental and Vision Care**

18 County proposal 17 seeks to remove what the County characterizes as an
19 "unnecessary and potentially misleading reference" to dental implant coverage. This is not a
20 proposed change in practice or plan design. The County's dental insurance plan covers dental
21 implants assuming the plan requirements have been met. The language that the County
22 seeks to remove from Article 6, Section 6.2 reads as follows: "Effective the plan year
23 beginning January 1, 2017, dental implants will be included in the coverage for PCDSA
24 employees." Similarly, County Proposal 18 seeks to remove "unnecessary and outdated
25 language" regarding vision care coverage. The language at issue reads: "The County shall
26 provide vision insurance at the 100% employee-only rate." The Union seeks to strike
27 County Proposal 17, as contained in the 2015-2018 MOU, from the successor agreement.
28

1
2 The Union further asserts that since County proposals 17 and 18 contain reopener
3 language, these proposals should not be recommended by the factfinding panel.¹⁹

4 **The Union's Non-Economic Proposals**

5 *Term of Contract*

6 The Union is proposing a contract term of five years, beginning on July 1, 2021, in
7 order to allow the parties adequate time to submit a measure to the voters to move the
8 Measure F salary adjustment formula from the Placer County Code to the Charter while
9 maintaining the 44-year old Measure F formula in a five-year successor agreement. The
10 Union notes that a five-year term also allows the parties at least two (2) opportunities to
11 submit a measure to the voters in an effort to resolve the dispute over the continuing
12 viability of the local salary ordinance. As this fiscal year is approaching its conclusion, the
13 Union believes that the five-year term should run through June 30, 2026. The Union also
14 takes the position that since the parties have been without a contract for three years, a longer
15 term contract will foster labor harmony by avoiding an immediate return to negotiations.
16 The County desires to continue the status quo with regard to a three-year contract term.

18 *Grievance Procedure*

19 The Union seeks to amend Article 4 of the MOU to add final and binding arbitration
20 as the final step of the grievance process. Currently, a bargaining unit member must exhaust
21 administrative hearing procedures before the Civil Service Commission before filing a writ
22 in the superior court. The Union seeks a process that allows resolution of the dispute by an
23 impartial and jointly selected neutral. The Union notes that all of the Measure F
24

25
26 ¹⁹ The Union cites PERB authority for the proposition that reopeners are non-mandatory
27 subjects of bargaining and that, as such, the Union cannot be forced to agree to reopener language,
28 i.e., even language that currently exists in the 2015-2018 MOU. This is just one of the many legal
issues that would be pursued in the event that the parties do not reach a settlement of the contract.

1
2 jurisdictions, as well as comparators used by the County in its own survey, have final and
3 binding arbitration as the final step of the grievance procedure. The County desires to
4 continue the status quo with regard to disputes involving interpretation of the provisions of
5 the MOU.

6 ***Discipline***

7 The Union also seeks final and binding arbitration as the final step of the disciplinary
8 process with each party to share equally in the expenses of arbitration as an alternative to a
9 hearing before the Civil Service Commission. The Union lacks confidence in the Civil
10 Service Commission to act as a neutral third party. The County seeks to continue the status
11 quo with respect to disciplinary procedures applicable to bargaining unit members.

12 ***Personnel Files***

13 The Union seeks to add new language to Section 14.6 which identifies non-
14 disciplinary corrective actions, provides for how records of such actions will be maintained
15 and establishes time periods for their removal. The proposal also sets forth when letters of
16 reprimand should be removed from a unit employee's personnel file. The Union takes the
17 position that corrective actions should not be considered discipline but may be used for
18 performance evaluations. The Union argues that corrective actions should be removed from
19 the divisional file if there are no repeat offenses by the next evaluation cycle. The Union
20 proposes that letters of reprimand should be removed from an employee's personnel file
21 after two
22 years from the original date of issuance; provided, however, that the employee has not been
23 subject to disciplinary action during the two-year period. Currently, unit employees must
24 actively seek to have letters removed. Employees are concerned that stale discipline may
25 have an impact on their ability to gain special assignments or promote. The County seeks to
26 continue the status quo on the grounds that the Union's proposal to purge letters of
27
28

1
2 counseling or reprimand is unnecessary, lowers the County's expectations for its deputy
3 sheriffs, and exposes the County to liability.

4 ***Catastrophic Leave***

5 The Union proposes a change to the Catastrophic Leave program that addresses the
6 issue of what happens when an employee who received a leave donation is subsequently
7 reimbursed for the use of leave through Workers' Compensation. The Union challenges
8 the existing practice which allows an employee whose leave banks are restored to keep the
9 donated vacation leave which may or may not have been used. To remedy this anomaly, the
10 Union requests that the panel recommend inclusion of the following new language as
11 Section 14.14 of the MOU;

12 Donated leave is only transferred from the donor to the receiving employee as needed
13 and chronologically by date of donation (i.e., first donated, first used). Time
14 donations are irrevocable by the donor once the time has been used by the receiving
15 employee. In the event that the receiving employee does not need to use all donated
16 leave for the catastrophic illness/or injury, any unused donations will not be deducted
17 from the original donor's balance. In the event that the receiving employee has a
worker's compensation claim approved for which the employee receives worker's
compensation paid leave, the County will reimburse any donated leave that was
used by the recipient prior to the approval of the worker's compensation claim.

18 The County opposes the inclusion of this provision based on "serious potential tax
19 implications for both donating and receiving employees" under the proposal. The County
20 did not provide a detailed explanation as to the tax implications associated with restoring
21 leave (whether used or unused) and did not specifically identify any costs that would be
22 incurred by the County in the event that the Union's proposal were to be implemented.

23 **RECOMMENDATION OF THE PANEL**

24 *The record does not establish that continuation of the Measure F formula, as it pertains*
25 *to base salary only, will result in uncontrolled or unsustainable costs during the term of*
the successor contract or at any time in the future.

26 Where the parties have incorporated the language of a local salary ordinance into
27 their MOU for the last 44 years, this implicates factors (2), (4), (5), (6) and (7) of the
28

1
2 MMBA criteria. For reasons explained herein, the panel has concluded that the County's
3 legitimate goal of controlling future costs can only be realized through changing the
4 structure of special pays, as opposed to changing the base salary formula.

5 The County has repeatedly emphasized that its bargaining goals are 1) to avoid
6 uncontrolled cost escalation; 2) to achieve market alignment with neighboring counties; and
7 3) to promote long-term fiscal sustainability. Logic dictates that stemming future costs
8 cannot be achieved through the elimination of a base salary formula that is based on the
9 average wages paid to law enforcement personnel by other northern California counties with
10 less robust economies. Lending additional support to this conclusion, the County has itself
11 characterized the base salary formula as a formula that has created "artificially low wages."
12 Under these circumstances, the real exposure to escalating costs is not created by the base
13 salary formula but rather by the tying of percentage pays to automatic yearly wage increases.
14 As described by the County in its final arguments to the panel, the current compensation
15 program has kept base wages low while over-inflating specialty pays.

16
17 The benefit which the County now seeks to eliminate has two distinct components:
18 1) the formula for arriving at the yearly salary increase using the salary data from the
19 Measure F counties and 2) the automatic payment of the yearly increase²⁰ independent of
20 collective bargaining. With regard to the first component of the benefit, the County has not
21 argued that the Measure F counties are inappropriate for purposes of base salary
22 comparisons. To the contrary, the repeated inclusion of the Measure F formula in the
23 contract during multiple contract cycles implies mutual acceptance of their comparability
24 dating back to 1977. Where there is no persuasive evidence that the County is

25
26
27 ²⁰ Theoretically, if El Dorado, Nevada and Sacramento counties paid no increases and the
28 average increase was \$0.00, the Union would receive no increase. There is no evidence that during
the history of the parties' bargaining relationship, there was ever a year in which no increase was
given.

1
2 disadvantaged by the Measure F base salary formula, or that the Measure F counties are not
3 comparable, the panel must conclude that the County has *not* established an economic
4 justification for abandoning the existing base salary formula.

5 ***The Union's proposal to submit a ballot measure to voters to adopt the Measure F***
6 ***formula as part of the Charter serves the best interests and welfare of the public.***

7 In arguing that Measure F is illegal, the County posits that 1) the local ordinance is
8 unconstitutional; 2) the local ordinance is in conflict with state law (the MMBA); and 3) the
9 local ordinance is preempted by the County Charter. Where neither party has been able to
10 supply legal authorities that would enable reliable predictions as to the outcome of litigation,
11 the contentions of both parties are, at best, legal theories that may or may not prove
12 successful when tested in a judicial forum. Due to the legal uncertainties surrounding what
13 has been the most divisive issue in the negotiations, the panel is recommending adoption of
14 the Union's salary proposal, as modified by the panel herein. Adopting the Union's proposal
15 to submit a ballot measure to the voters is more likely to pave the way for more harmonious
16 labor relations whereas the County's wage proposal, tied to elimination of County Code
17 Section 3.12.040, is likely to expand existing disputes into uncharted terrain with
18 potential unknown consequences to the parties.

19 ***The County's legal arguments do not present an "open and shut" case.***

20 ***The Unconstitutionality Argument***

21 While the County has expressed a high level of confidence that it has the winning
22 arguments regarding Measure F, a review of the legal authorities on which the County relies
23 reveals that the County has raised issues that are both complex and novel. In post-hearing
24 brief, the County argues that the local ordinance infringes on its authority under Article 11
25 of the California Constitution to determine its employees' compensation; however, a review
26 of the language of Article 11 does not lead inexorably to that conclusion. For example,
27 Section 4 of Article 11 provides: "County charters shall provide for: ... (f) The fixing and
28

1
2 regulation by governing bodies, *by ordinance*, of the appointment and number of ... persons
3 to be employed. Article 11, Section 7 of the California Constitution also specifically
4 provides that a county may make and enforce within its limits ordinances and regulations
5 that are not in conflict with general laws. There is no language in Article 11 of the California
6 constitution which addresses the legality or enforceability of a local ordinance that
7 establishes a formula for ascertaining whether or not to administer annual base salary
8 increases. Recognizing that the general language of Article 11 does not provide definitive
9 support for its position, the County has looked for additional support in court decisions.

10 Specifically, the County relies on the California Supreme Court's decision in
11 *Sonoma Cty. Org. Of Pub. Employees v. Cty of Sonoma* (1979) 23 Cal. 3d 296 to argue
12 that County Code section 3.12.040 is unconstitutional. In a case almost as old as Measure
13 F, the Court examined the constitutionality of Government Code §16280 (prohibiting the
14 distribution of state surplus or loan funds to any public agency granting cost-of-living or
15 salary increases over and above increases provided to state employees). There, a group of
16 unions representing county employees principally argued that the statute was an
17 unconstitutional impairment of contract (referring to the MOUs which provided for wages
18 that, if paid, would conflict with the requirements of the statute). The Court was also asked
19 to determine the question of whether Government Code §16280 violated Article XI of the
20 California Constitution because it interferes with the rights of chartered counties to
21 determine the compensation of their employees *through collective bargaining*. Although the
22 Court did find the challenged statute to be unconstitutional on multiple grounds, the
23 consequences of the Court's decision was to enforce the terms of the negotiated MOUs and
24 to invalidate a statute that would have otherwise penalized county employers by denying
25 them funds designed to mitigate the effects of Proposition 13.
26
27
28

1
2 In *County of Sonoma*, the Court specifically found that there could be no doubt that
3 there was a conflict between the challenged statute (which effectively invalidated wage
4 increases that had been agreed to by cities and counties) and the ordinances or resolutions of
5 the local agencies that ratified the agreements. Here, there is no such showing of a conflict.
6 To the contrary County Code Section 3.12.040 and the negotiated agreements have co-
7 existed for a period of 44 years in harmony as both the local ordinance and successive
8 MOUs have contained the identical base salary formula. Under these circumstances, it is
9 doubtful that any court would conclude that the Supreme Court's decision in *County of*
10 *Sonoma* compels the conclusion that County Code Section 3.12.040 is unconstitutional.²¹

11 ***The MMBA Preemption Argument***

12 As a threshold matter, the MMBA contemplates that as a statewide statute, it will
13 coexist with charters, ordinances and rules of public agencies as reflected in the following
14 language of Government Code § 3500 (a):
15

16 It is the purpose of this chapter to promote full communication between public
17 employers and their employees by providing a reasonable method of resolving
18 disputes regarding wages, hours, and other terms and conditions of employment
19 between public employers and public employee organizations. It is also the purpose
20 of this chapter to promote the improvement of personnel management and
21 employer-employee relations within the various public agencies in the State of
22 California by providing a uniform basis for recognizing the right of public employees
23 to join organizations of their own choice and be represented by those organizations in
24 their employment relationships with public agencies. **Nothing contained herein
shall be deemed to supersede the provisions of existing state law and the
charters, ordinances, and rules of local public agencies that establish and
regulate a merit or civil service system or which provide for other methods of
administering employer-employee relations nor is it intended that this chapter
be binding upon those public agencies that provide procedures for the
administration of employer-employee relations in accordance with the**

25 ²¹ The County's reliance on *San Francisco Labor Council v. Regents of Univ. of California*
26 (1980) 26 Cal. 3d 885 is similarly unavailing. This case raises the issue of whether the Regents
27 could be compelled to fix minimum salary rates for certain employees at or above prevailing rates in
28 accord with Education Code §92611. Since the California Constitution specifically provides that
the University operates as independently of the state as possible and can only be regulated as
specified in Article IX, any attempt to analogize to this case is unlikely to be successful.

1
2 **provisions of this chapter. This chapter is intended, instead, to strengthen merit,**
3 **civil service and other methods of administering employer-employee relations**
4 **through the establishment of uniform and orderly methods of communication**
5 **between employees and the public agencies by which they are employed.**
6 Emphasis supplied.

7 The above-quoted statutory language helps to explain why local ordinances continue to be
8 applied to represented employees throughout the state of California.

9 In post-hearing brief, the County takes the position that the MMBA preempts any
10 local labor-management procedures which foreclose salary negotiations. This presupposes
11 that the parties' repeat *agreements* to use the Measure F formula, as both a ceiling and a
12 floor, foreclosed negotiations. This assumption is simply not accurate. As explained in this
13 report, the parties, over the course of decades, have mutually agreed to use the same formula
14 currently used by the Board of Supervisors to determine their own compensation. In
15 advocating the principle of MMBA preemption, the County cites two cases, i.e., *Voters for*
16 *Responsible Retirement. v. Bd. of Supervisors* (1994) 8 Cal 4th 765 and *City of Fresno v.*
17 *People ex. Rel. Fresno Firefighters, IAFF Local 753* (1999) 71 Cal. App. 4th 82. Neither of
18 these cases is squarely on point nor does either case provide unassailable support for the
19 County's position.

20 In *Voters for Responsible Retirement*, the California Supreme Court concluded that,
21 contrary to the contentions of both parties, Article XI, section 1 (b) of the California
22 Constitution neither restricts nor secures the local right of referendum on employee
23 compensation decisions. The Court further concluded that Government Code §25123 (e)
24 (providing that ordinances relating to and other compensation of employees take effect
25 immediately), read in conjunction with the MMBA, does restrict the people's right of
26 referendum in a case in which the ordinance that would be the subject of the referendum
27 specifically relates to the implementation of an MOU.
28

1
2 In *Voters for Responsible Retirement*, the Trinity County Board of Supervisors had
3 approved a three-year MOU with various employee associations which included various
4 changes to the retirement plan subject to completion of various statutory requirements, i.e.,
5 amendment of the County's contract with PERS. The Board subsequently approved the
6 amendment of the contract through Ordinance 1161. Due to community concern that the
7 new retirement plan created a financial burden on the County, the required signatures were
8 gathered to challenge the ordinance through repeal or referendum. While the case does
9 address to what extent the MMBA restricts the use of the referendum to overturn the product
10 of negotiations between employers and unions (MOU provisions), it does not address to
11 what extent an employer may *unilaterally* repeal a local ordinance which has for more than
12 40 years served as the formula for base salary negotiations.

13
14 *City of Fresno* raises the issue of whether a city may contractually agree, under a
15 labor agreement between the city and its labor unions pursuant to the MMBA, to refrain, for
16 the duration of the agreement, from exercising its right to propose charter amendments to the
17 voters. In *City of Fresno*, a charter provision prescribed an eight-city formula under which
18 the council was required to set salaries for police officers and firefighters based on the
19 average salaries paid to their counterparts in eight other California cities. Due to an
20 unsuccessful attempt to repeal the charter provision under prior agreements and the
21 continuing concern of both police and fire unions that a citizens' group might attempt to put
22 the repeal on the ballot for a second time, the MOUs contained language providing for an
23 alternative salary setting method in the event that the eight-city formula were to be
24 eliminated by a vote of the electorate. The MOUs also contained a zipper clause requiring
25 any party desiring to change a provision of the MOU during the term of the contract to
26 request a meet and confer and further stating that a party may refuse a request to meet and
27 confer if the matter on which negotiations was being sought was covered by the MOU, or the
28

1 subject of a written proposal during negotiations. Thereafter, the City requested to meet
2 with the unions to discuss a possible repeal. When the unions refused to meet, the City
3 brought an action requesting an injunction and declaratory relief.
4

5 Citing *County of Sacramento v. Fair Political Practices Com.* (1990), 222 Cal. App.
6 3d 687, the court initially observed that when a charter city legislates with regard to
7 municipal affairs, its charter prevails over state law. However, as to matters of statewide
8 concern, charter cities remain subject to state law. In finding that the constitutional grants
9 of authority to a charter city are not absolute, the court specifically stated:

10 The Supreme Court has held on several occasions that these provisions must be
11 harmonized with laws addressing matters of statewide concern. General laws
12 seeking to accomplish a statewide objective may prevail over conflicting local
regulations even if they impinge upon some phase of local control. *Baggett v. Gates*
(1982) 32 Cal. 3d 128.

13 Based on its reading of *People ex. rel. Seal Beach Police Officers Assn. v. City of Seal Beach*
14 (1984) 36 Cal. 3d 591, the court concluded that to promote harmonious and stable labor
15 relations (a matter of statewide concern), the City must meet and confer on charter
16 amendments which involve a mandatory subject of bargaining and that once a city has
17 bargained and agreed in an MOU to forego its power to propose amendments for the term of
18 the agreement, the agreement is binding.

19 In sum, *City of Fresno* does not support the County's position that the MMBA, a
20 general statute of statewide concern, preempts a more specific statute, i.e., Section 3.12.040
21 of the County Code. Nor does it stand for the proposition that Measure F is in conflict with
22 the MMBA; that the MMBA supersedes the ordinance; or that Measure F is unenforceable.
23

24 ***The Charter Supersession Argument***

25 As the third prong of its argument, the County argues that its Charter, enacted in
26 1980, supersedes Measure F insofar as the Charter contradicts County Code § 3.12.040.
27 Specifically, the County focuses on Charter Section 302 (b) which empowers the Board of
28

1 Supervisors to set compensation for County employees. This argument ignores the fact that
2 County has an obligation under a statute of statewide concern (the MMBA) to bargain with
3 the Union regarding not only compensation but other mandatory subjects of bargaining
4 whether or not specifically authorized by the Charter. Stated another way, the power of the
5 Board of Supervisors to "set compensation" (here through the bargaining process in
6 accordance with the MMBA) does not negate either the Union's role in the negotiating
7 process or the role of the electorate in repealing a voter-enacted ordinance.
8

9 In sum, the issues around Measure F are novel and complex and the cited cases are
10 not directly on point. Under these circumstances, litigation for both parties would likely be
11 expensive and unpredictable and there could be unforeseen outcomes for both parties.

12 ***The panel recommends changes to the Union's proposal.***

13 While the Measure F formula, *as applied to base salary*, has not resulted in
14 uncontrolled or unsustainable costs, the issues surrounding Measure F have been the most
15 contentious. For this reason, the panel questions whether the parties should agree to a date
16 certain for submission of the ballot measure. In the interest of promoting harmonious labor
17 relations, the panel recommends that the successor agreement commence on July 1, 2021
18 and remain in effect for a period of five years, i.e., ending on June 30, 2026, and that any
19 attempt (s) to secure a voter-enacted Charter amendment occur prior to expiration of the
20 contract. The panel also recommends that, in order to foster collaboration between the
21 parties, each of the parties agree to withdraw all pending unfair labor practice charges.²²
22

23
24 ²² Since the Union's proposal contemplates that the parties will be working together to
25 formulate the precise language of the Charter measure, the parties may wish to consider whether the
26 the average wage derived from the comparators should be considered a salary minimum or "a floor
27 and a ceiling." If the language provides only for minimums, with the opportunity to negotiate
28 additional increases at the bargaining table, this would keep the automatic yearly increases
(independent of the bargaining process) in effect but the County would have the freedom to
negotiate what it regards as regionally competitive base salaries that exceed the minimums during
the next round of bargaining. Thus, this approach may benefit both parties.

1 The recommended approach, i.e., letting the voters decide a contentious issue that
2 the parties have been unable to resolve in bargaining, addresses the County's concern that
3 the existing Charter, as amended in 1980, supersedes the local ordinance, as well as the
4 Union's concern that the elimination of Measure F usurps the authority of the voters and
5 invites litigation by citizen groups. When viewed in the entire context of the recommended
6 terms of settlement, this is a reasonable pathway for the parties to work together to repeal
7 the local ordinance and re-adopt the same base salary formula, applied annually, as part of
8 the Charter.
9

10 While no one can accurately predict the outcome of litigation, the issues raised by
11 the parties herein are complex and novel issues of first impression. These issues could take
12 years to finally determine; have a real potential to further undermine the already strained
13 relationship of the parties, and would likely prove very expensive to litigate. Taking these
14 factors into consideration, the panel recommends adoption of the Union's proposal, as
15 modified herein, because it places resolution of the Measure F issue in the hands of the
16 voters and enables the parties to engage with each other in a more collaborative manner. It
17 is also worth noting that acceptance of the Union's proposal does not frustrate what the
18 County has identified as its principal goals of avoiding uncontrolled cost escalation,
19 achieving market alignment with neighboring counties, and promoting long-term fiscal
20 sustainability.
21

22 ***The conversion of percentage pays to flat amount pays, as described herein, will bring the***
23 ***total compensation of bargaining unit members into closer alignment with the***
comparator counties.

24 The panel has concluded that the bargaining unit is being paid at a rate that
25 significantly outpaces the *total compensation* paid to other similarly situated employees in
26 the Measure F counties and that deputy sheriff salaries have, particularly within the past five
27 years, outpaced increases in the consumer price index. In comparing the impact of base
28

1 salary and percentage pays on total compensation, the panel has further concluded that the
2 market position of the Union's members (21% ahead of the market) is a function of total
3 compensation as driven by percentage pays, and *not* by base salaries.
4

5 The position of the bargaining unit, vis-a-vis the Measure F counties, is largely a
6 product of escalating percentage pays that are *regularly* paid to members of the bargaining
7 unit, i.e., percentage pays that grow automatically with each annual increase. The panel
8 distinguishes two special pays, i.e., Field Training Officer pay and night shift differential,
9 because these special pays are paid on an *intermittent* basis. As to the two intermittent
10 special pays, the panel recommends continuation of the status quo as neither FTO pay nor
11 night shift differential have been shown to materially impact the County's goal of avoiding
12 escalating future costs expected to become fiscally unsustainable. On the other hand, where
13 the regularly paid incentive pays collectively represent approximately 50% of total
14 compensation, the County's argument (that tying these pays to Measure F salary increases
15 has over-inflated special pays) is persuasive. In the panel's view, tying the growth of
16 special pays to annual base salary increases amplifies the impact of the local ordinance and
17 fuels the disparity in overall compensation between Placer County and the Measure F
18 counties.
19

20 In sum, the County's proposal to address this disparity by converting percentage
21 pays to flat amounts, while at the same time increasing these pays on a one-time basis, is a
22 fair and balanced approach to controlling future costs without adversely impacting current
23 wages. The impact of the County's proposal to rein in escalating costs would be blunted if
24 the panel were to accept the Union's proposal to change educational pays to percentage pays.
25 The panel therefore recommends that the County's proposals be adopted with regard to
26 Detective Pay, Career/Education Incentive (**with the Union's proposed flat amount**
27
28

1 **payments),²³** and Bilingual Pay. With regard to the intermittent pays, the panel recommends
2 that the Union's proposals with regard to FTO Pay and Night Shift Differential be adopted.

3
4 Under the circumstances presented here, the continuation of the Measure F formula
5 in setting base salaries on an annual basis, along with the parties' joint commitment to
6 submit a measure to the voters (that would repeal Section 3.12.040 of the County Code and
7 enact a charter amendment that sets annual salaries using the Measure F formula) is the quid
8 pro quo for the elimination of the lion's share of the percentage pays as proposed by the
9 County. This compromise serves the interest and welfare of the public because it addresses
10 the County's need for predictability in budgeting; maintains the predictability of annual base
11 salary readjustments for Union-represented employees and brings bargaining unit members'
12 overall compensation into closer alignment with the comparator counties.

13 ***The panel recommends the Union's proposal for a 60 air-mile radius***

14 Two other special pays that are the subject of the dispute are the Tahoe Branch
15 Assignment Pay and Longevity Pay. Where the Union conceded the issue of the
16 requirement of a dwelling in the Tahoe area, allowing the Union a wider area for location
17 of the dwelling is a reasonable compromise. This is especially true where the 60 air-mile
18 radius proposed by the Union is designed to give officers more flexibility in selecting
19 schools and housing which presents unique challenges in the Tahoe region.

20
21 ***The panel also recommends adoption of the County's new longevity pay language and
continuation of the status quo with regard to longevity pay amounts.***

22 With regard to Longevity Pay, the panel concludes that the language sought by the
23 County is reasonable in light of PERS regulations and should be adopted. With regard to the
24 Union's proposal to increase longevity pay, there is no sufficient showing that higher rates of
25 longevity pay are warranted.

26
27
28 ²³ Consistent with the panel's recommendation on the salary issue, the panel recommends
the Union's proposed flat amounts as they reflect the Measure F raise effective February 2021.

1 ***The panel also recommends adoption of County proposals 15 and 16.***

2 In its hearing presentation, the County presented un rebutted evidence that employer
3 contribution rates are expected to increase dramatically in the coming decade and that to the
4 extent that the County continues to fund a portion of EPMC on behalf of tier 1 employees,
5 this burgeoning liability is exacerbated. While the County may have been willing at one
6 point during the course of the negotiations to drop this proposal if other savings could be
7 achieved, this does not alter the fact that implementation of the proposal would result in an
8 immediate yearly savings to the County at a time when its liability for PERS contributions is
9 increasing. The panel recommends that the County's proposal 15 become one of the terms
10 of a final settlement of the contract.
11

12 Similarly, the County's proposal to control the cost of its contributions to health care
13 would result in an immediate savings at a time when the cost of health insurance is
14 universally rising. While the panel has considered the burden placed on officers assigned to
15 the Tahoe area, this evidence is not sufficiently persuasive to dissuade the panel from
16 recommending that proposal 16 become a part of the parties' successor agreement.
17

18 ***The panel recommends the continuation of existing language of Articles 6.2 and 6.10.***

19 The County's proposals 17 and 18 regarding dental and vision care are unrelated to
20 cost savings. These requests for changes in language are deemed by the panel to be of little
21 consequence to either party. The panel will therefore recommend a continuation of the
22 status quo with respect to Articles 6.2 (Dental Insurance) and 6.10 (Vision) for the life of the
23 successor agreement.²⁴
24

25 ²⁴ In making this recommendation, the panel makes no finding regarding the Union's
26 allegation that by insisting to impasse that the Union agree to a non-mandatory subject (reopener),
27 the County has engaged in an unfair labor practice. In any event, if the parties were to accept the
28 recommendations of the panel for settlement of the contract terms, this legal issue, like multiple
other legal issues, would become irrelevant during the term of a five-year agreement.

1 ***The panel does not recommend final and binding arbitration of discipline grievances.***

2 While the Union claims that administrative procedures before the Civil Service
3 Commission do not provide the same level of fairness as final and binding arbitration by a
4 neutral arbitrator mutually selected by both parties, there is no solid evidence that the system
5 in place is not working to vindicate the rights of the Union's members who have been
6 subjected to disciplinary action. No specific evidence was presented that would
7 demonstrate that an inordinate number of cases are being appealed to court; that the hearing
8 officers are biased or unqualified to decide disciplinary issues (that probably do not involve
9 an interpretation of the parties' contract); that employees are being denied their due process
10 rights; or that the existing system is riddled with delay or some other procedural unfairness.
11 Under these circumstances, the panel recommends a continuation of the status quo with
12 respect to the final appeal of disciplinary action as set forth in Article 11.

13
14 ***The panel recommends final and binding arbitration of contract interpretation***
15 ***grievances.***

16 With respect to Article 4, the panel recommends acceptance of the Union's proposal
17 #2 with respect to a proposed change in the final step of the grievance procedure, i.e., from
18 the filing of a formal complaint with the Civil Service Commission (the current final step) to
19 final and binding resolution by a third party neutral (as proposed by the Union). As noted
20 by Union President Noah Frederito in his hearing testimony, the parties have frequent
21 disputes over the meaning of their contract. Unlike disciplinary appeals, contract
22 interpretation grievances may affect all or a substantial number of employees in the
23 bargaining unit. Where the rulings of the Civil Service Commission are not final and
24 binding and may be appealed to the superior court, the duration of contract disputes may be
25 unduly prolonged, i.e., spilling over into a new contract cycle and bringing legal disputes to
26 the bargaining table.

1 The Union proposes using the roster of neutrals provided by the California State
2 Mediation Service (CSMCS). Arbitrators on this CSMCS roster have special expertise in
3 resolving disputes regarding the interpretation of collective bargaining agreements. In
4 accord with the Union's proposal, the arbitrator is mutually selected by the parties from a list
5 of qualified neutrals through an alternate striking procedure and the fees and expenses of the
6 arbitrator, who makes a final decision, are shared equally by the parties.
7

8 Here, the Union is not seeking a benefit that is rarely provided to other law
9 enforcement groups. To the contrary, this is a benefit enjoyed by every agency that the
10 County identified in one of its own surveys, as well as Measure F counties. The County
11 objects to final and binding arbitration on the grounds that there is no showing of unfairness
12 on the part of Sheriff's Department management. This argument ignores the fact that the
13 Union seeks to transform what has essentially been a unilaterally imposed multi-level appeal
14 process into a *negotiated* procedure for dispute resolution that is more streamlined.

15 Submitting disputes over interpretation of contract provisions to an impartial third
16 party neutral is a tried and tested method of dispute resolution in unionized settings that has
17 worked well for decades. Just as submitting the Measure F formula to the voters would
18 serve to diffuse a continuing source of conflict between the parties, submitting contract
19 interpretation disputes to a third party neutral would provide quicker solutions to conflicts,
20 as well as reasoned decisions by mutually selected professional contract readers. During a
21 contract cycle in which the Union is being asked to surrender significant economic
22 enhancements, final and binding arbitration of contract interpretation grievances is an
23 appropriate trade-off for concessions on special pays and benefit costs.
24

25 ***There are compelling reasons for adoption of the Union's proposal 13 as modified.***

26 Letters of warning and counseling memoranda need not remain active for an
27 indefinite period of time as a permanent stain on the employee's reputation. The purpose of
28

1 counseling and low-level discipline is not to punish the employee for an indeterminate
2 amount of time but rather to correct performance deficiencies. After an employee has
3 brought performance into line with management expectations and has received no corrective
4 action or warning letter for a two-year period, the employee deserves to be afforded a
5 meaningful opportunity for career growth and development, i.e., an opportunity that could
6 be denied based on stale documentation that remains in files reviewed by the employee's
7 superiors. A two-year period is long enough to provide positive assurances to the County
8 that an employee has chosen a new direction consistent with management expectations.
9 Expunging low level discipline and counseling memoranda, after at two-year period with no
10 corrective actions or warning letters, is extremely unlikely to expose the County to liability.

11
12 The panel recommends adoption of a more simplified version of the Union's
13 proposal to contain the following language:

14 Counseling memoranda are to be removed from divisional files after two years
15 during which the employee receives no subsequent counseling memorandum.

16 Documentation regarding verbal warnings or letters of warning are to be removed
17 from personnel files after two years during which the employee receives no
subsequent documented verbal warnings or letters of warning.

18 This language provides a strong incentive for employees to avoid counseling or discipline, in
19 order to remove obstacles to career advancement, and would be of benefit to both parties.

20 ***The Catastrophic Leave Proposal was not fully vetted during bargaining.***

21 The panel recognizes that there is a fairness issue with regard to leave donations
22 when an employees sick leave is restored pursuant to Workers' Compensation; however, it is
23 unclear to the panel what specific tax issues would preclude an adjustment of leave balances
24 under these circumstances. The panel therefore recommends that the parties agree to seek
25 clarification from the auditor as to how this inequity might be corrected, whether the
26 catastrophic leave is used or unused, without exposing the County or any party to tax
27
28

1 liability. Clarification of this issue would also facilitate leave donations (a practice that both
2 parties support) in a manner that would benefit both parties.²⁵

3 4 **CONCLUSION**

5 The panel has determined that in accordance with the statutory criteria, this
6 recommendation supports the interests and welfare of the public and the financial ability of
7 the public agency, addresses the long history of a base salary formula applied annually,
8 considers both parties' proposals in light of wage comparability and the cost of living, and
9 takes into account the overall compensation of unit employees. Additionally, the proposed
10 settlement generates both immediate and long term cost savings while, at the same time,
11 preserving a longstanding economic benefit (the annual base salary formula applied per
12 contract and local ordinance), i.e., a benefit of huge significance to the Union and its
13 members. The proposed settlement also keeps in place a benefit endorsed by current Sheriff
14 Bell and former Sheriff Bonner and considered by Union witnesses to be an essential feature
15 of the recruitment program. Equally significant, the proposed settlement places the most
16 divisive issue in these negotiations in the hands of the voters, puts an end to contentious
17 legal disputes for the duration of a five-year contract, and promotes labor peace and
18 harmony. Finally, the adoption of final and binding arbitration of contract interpretation
19 disputes strikes a balance between cost-saving concessions and non-economic improvements
20 and recognizes the Union as an equal partner in the dispute resolution process.

21
22 Based on its findings and conclusions, the panel recommends terms of settlement as
23 set forth in this report and as summarized in Exhibit "A" to this report.

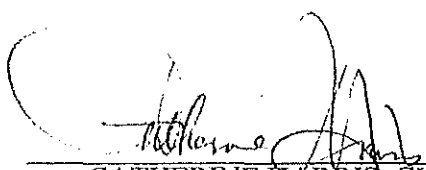
24 ///

25 **SEE SIGNATURES OF MEMBERS OF THE PANEL ON NEXT PAGE**

26
27
28 ²⁵ The panel also recommends that all of the tentative agreements under Tab 26 of the Joint Exhibits be included in the successor MOU.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: 8/20/21


CATHERINE HARRIS, CHAIRPERSON


Dated:

JANE CHRISTENSON
Employer Panelmember

I concur ☐

I dissent ☐

Dated: 8/21/21


JASON FARRAN
Union Panelmember

I concur ☒

I dissent ☐

Attachment:

Exhibit "A" (Summary of Terms of Recommended Settlement)

1 essential feature of the recruitment program. Equally significant, the proposed settlement
2 places the most divisive issue in these negotiations in the hands of the voters, puts an end to
3 contentious legal disputes for the duration of a five-year contract, and promotes labor peace
4 and harmony.

5
6 Based on its findings and conclusions, the panel recommends terms of settlement as
7 set forth in this report and as summarized in Exhibit "A. "

8
9 Dated:

10 _____
CATHERINE HARRIS, CHAIRPERSON

11
12 Dated: 8/12/21

13 _____
14 JANE CHRISTENSON
Employer Panelmember

15 I concur ☐

16 I dissent ☒

17
18 Dated: Dated:

19 _____
JASON FERRAN
Union Panelmember

20 I concur ☐

21 I dissent ☐

22
23
24 Attachment:

25 Exhibit "A" (Summary of Terms of Recommended Settlement)

**Fact-Finding Hearing with the County of Placer
& the Placer County Deputy Sheriffs' Association
PERB Case No. SA-IM-220-M**

Placer County Panel Member
Jane Christenson, Assistant County Executive Officer
Auburn, California

Dissent and Concurrence to the Fact-Finding Report and Recommendations

As the representative for the County of Placer (County) to the Fact-Finding Panel, I respectfully dissent & concur with the recommendations contained in the Fact-Finder's Report & Recommendations (Report), as described below. Over the past two years, the County has tried in good faith to reach an agreement with the DSA to help achieve the following three goals: (1) avoid uncontrolled cost escalation, (2) reach market alignment with its neighboring Counties; and (3) promote the County's long-term fiscal sustainability. To further these goals, the County sought a three-year agreement, in which the Placer County Deputy Sheriffs' Association ("DSA") would receive a combined **12.75% base salary increase**. This increase would represent an approximate **\$5.6 million** investment into public safety over the next three years in base salaries.

However, despite the County's good faith efforts to reach an agreement with the DSA, the parties remain at impasse in negotiations. The Report's recommendations do not adequately address the County's primary concern: the need to negotiate salaries with the DSA and to repeal the statutory salary setting formula commonly referred to as "Measure F." Primarily for this reason, I am providing the following dissent and concurrence.

1. The County Should Bargain Salaries for DSA Members and Repeal Measure F

Consistent with the California State Constitution, the Meyers-Milias-Brown Act, and the Placer County Charter, the County seeks to exercise its legal right to negotiate salaries with the DSA. The vast majority of public entities in California establish salary increases through this same negotiation process. Further, all other County represented bargaining units also establish their salaries increases through negotiations. Previously, it was thought that Measure F would ensure that employees compensation remain at market. However, Measure F has caused DSA employees' total compensation to be as much as **21% above the market due to the compounding effect of Measure F and other provisions of the current agreement**.

These escalating salaries have created significant fiscal challenges that require that the County take decisive steps to remedy. The County estimates that the uncontrolled costs are a direct result from Measure F and the existing agreement. The County projects that based on current trends, the unassigned General Fund Balance will be **\$-22.1 million** by 2025, and **\$-63.1 million** by 2030. If unchecked, the County would have to respond to these deficits with layoffs or cuts to public services. While the Report recommends that Measure F be submitted to the voters as a charter amendment, the County seeks to repeal the measure to remedy the County's long-term fiscal deficits and to bargain salary increases as it does with all other represented bargaining units, in keeping with the Charter authority approved by Placer voters.

2. The County Should Convert DSA Specialty Pays to Flat Dollar Amounts

I generally agree with the factual findings and recommendations contained in the Report regarding converting specialty pays to flat dollar amounts. While I disagree that this alone is sufficient to address the County's projected deficits, I concur that converting the percentage-based amounts to set dollar amounts is an important step to addressing the County's looming fiscal challenges.

3. The Report Should Recommend the County's Proposal for Tahoe Branch Assignment Pay.

The County provides Tahoe Branch Assignment Pay to help offset the increased cost of living in the Tahoe Basin area. The County sought to clarify that employees must live within 50 driving miles in order to qualify for the pay. During the Fact-Finding hearing, the DSA incorrectly asserted that the County's proposal was too restrictive because it limits the DSA members from receiving the incentive while living in Reno or Sparks, Nevada. However, the County directly disputed this assertion by providing a coverage map that clearly shows that both the city of Reno and Sparks are covered by the County's proposal.

The Report recommends that "Tahoe Branch Assignment Pay" be provided to employees who live beyond the cities of Reno or Sparks, which are already outside the Tahoe Basin area. Essentially the report would provide a Tahoe cost-of-living windfall to DSA member who live outside the higher cost area but would continue to receive the increase in compensation.

4. The County's Proposal to Clarify Current Practice Regarding Longevity Should be Adopted.

I concur with the Report's recommendation that the County proposal 14 be adopted. This clarifying language was recommended by CalPERS during a prior audit of the Memorandum of Understanding. This is not a change in practice and will have no impact on employees.

5. The County's Proposals Regarding CalPERS and Health Care Contributions should be adopted.

I concur with the Report's recommendation that the County proposals 15 and 16 be adopted. These two proposals result in immediate cost savings for the County. County Proposal 15 will require that "Classic" tier employees will pick up their full share of retirement contributions. This will result in an approximate \$155,000 of annual cost savings for the County.

Additionally, County Proposal 16 would require that the County's contributions towards health care be set at 80% of the PORAC plan. This would result in an approximate \$255,357 of annual cost savings for the County.

6. The County's Proposals Regarding Clean up Language Regarding Vision and Dental Coverage should be adopted.

The Parties' agreement contains outdated language that states that employees shall have coverage for specific dental and optical items. These items are already covered under the Parties' dental and vision plans. Accordingly, the County seeks to remove unnecessary and outdated language regarding vision and dental care coverage. The County is not seeking to change its current practice or coverage, so I dissent from the Report's recommendations that the obsoleted terms should remain.

7. The County Should Not Agree to Binding Arbitration.

I dissent from the report's recommendations regarding contractual arbitration. The county does not provide contractual arbitration for this bargaining unit or any other county bargaining unit but uses a Civil Service Commission to evaluate these types of disputes. The Civil Service Commission consists of members of the public who live and are active members of the community. I believe it is in the best interest of the county to have disputes resolved by individuals who are members of the public, rather than appointed individuals who may come from hundreds of miles and know nothing about Placer County. *It is important to note this Civil Service Commission role was affirmed by the 2019 Charter Review Committee, as well as the voters of Placer County in a November 2020 election.*

Additionally, I respectfully disagree with the recommendation that the contractual arbitration process is more streamlined or expeditious than the Civil Service Commission. Please note no evidence was presented during the hearing to indicate that the current process is unduly delayed or backlogged. This is especially notable when contrasted with the considerable delay and cost experienced to date with an outside arbitrator.

8. The County Should Not Agree to Purge Letters of Counseling and Reprimand that are older than two years.

I dissent from the recommendation that counseling memorandum and letters of reprimand that are older than two years should be removed from supervisory files. Letters of counseling, instruction, and reprimand are informal corrective actions taken to avoid future, and potentially more serious, misconduct. These written documents serve two important and distinct purposes: (1) they place the employee on notice of actions they need to correct; and (2) they document that the Department has taken corrective or preventative steps. Removing or limiting these documents would create serious risk of liability for the County and its taxpayers.

SUMMARY OF RECOMMENDED CONTRACT TERMS

1. Base salary-adopt Union proposal with panel modifications
2. Special Pays-adopt County proposal with Union's method of calculating flat pays for Career Incentive Pays (except as provided in 3)
3. Continue status quo with respect to FTO pay and night shift differential (with addition of side letter re: interpretation of Section 8.11)
4. Continuation of status quo with regard to education incentives
5. Adopt County proposals 15 and 16 for control of benefit costs
6. Adopt 60 air miles in lieu of 50 driving miles for Tahoe Branch assignment
7. Continue status quo with regard to longevity pay rates but adopt County proposal for language change to reflect PERS regulations
8. Continuation of status quo with regard to Article 6.2 (Dental Care) and 6.10 (Vision)
9. Adopt Union proposal 13 (Personnel Files as modified by panel)
10. Adopt panel proposal to seek clarification regarding tax implications of restoring unused or catastrophic leave
11. Adopt Union proposal for final and binding arbitration of contract interpretation grievances
12. Continue status quo with regard to disciplinary appeals
13. Five-year contract
14. Adopt all tentative agreements under tab 26 of joint exhibits

Exhibit "A"

EXHIBIT H

Before the Board of Supervisors County of Placer, State of California

In the matter of: An ordinance implementing salary and benefits adjustments for employees represented by the Placer County Deputy Sheriffs' Association.

Ordinance No.: 6105-B

Introduced: September 14, 2021

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held September 28, 2021, by the following vote:

Ayes: GORE, HOLMES, GUSTAFSON

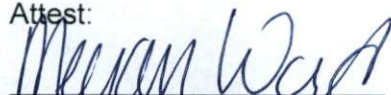
Noes: JONES

Absent: WEYGANDT

Signed and approved by me after its passage.


Chair, Board of Supervisors

Attest:


Clerk of said Board

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA,
DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. This ordinance implements salary adjustments for employees represented by the Placer County Deputy Sheriff's Association (PCDSA) as set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. This ordinance shall be effective the first pay period following adoption unless otherwise set forth in Exhibit A.

Section 3. That this ordinance is adopted as an un-codified ordinance.

Exhibit A: Compensation Adjustments for Employees Represented by Placer County Deputy Sheriffs' Association

EXHIBIT A

SALARY ADJUSTMENTS

PCDSA represented employees shall receive general wage increases as follows:

- Deputy Sheriff Trainee 1.09%
- Deputy Sheriff I 1.09%
- Assistant Deputy Sheriff I 1.09%
- Deputy Sheriff II 1.09%
- Chief Deputy Coroner 1.41%
- Sheriff's Sergeant 1.41%
- Investigator – District Attorney 1.41%
- Investigator – Welfare Fraud/Child Support 1.41%
- Investigator – Welfare Fraud – Supervising 1.41%

HEALTH CARE

- a. Effective January 1, 2022, the County shall pay up to 80% of the total premium for the PORAC health plan offered by the County.
- b. Employees who select a health plan with higher monthly premiums than the maximum monthly premium paid by the county (Section a. above) shall pay the difference through payroll deduction. Should employees select a health plan with lower monthly premiums than the maximum monthly premium paid by the County, the County's contribution shall be limited to the cost of the selected plan premium.

EXHIBIT I

Before the Board of Supervisors County of Placer, State of California

In the matter of: An ordinance amending sections of Chapter 3 to implement the terms imposed on the Placer County Deputy Sheriffs' Association.

Ordinance No.: 6104-B

Introduced: September 14, 2021

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held September 28, 2021, by the following vote:

Ayes: GORE, HOLMES, GUSTAFSON

Noes: JONES

Absent: WEYGANDT

Signed and approved by me after its passage.


Chair, Board of Supervisors

Attest:


Clerk of said Board

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA,
DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. That the following sections Chapter 3 of the Placer County Code are amended as set forth in Exhibit A, attached hereto and incorporated herein by reference:

- 3.04.190
- 3.04.280
- 3.04.290
- 3.08.1020
- 3.12.020
- 3.12.040
- 3.12.060
- 3.12.080

Section 2. This ordinance shall be effective the first pay period following adoption.

Section 3. That this ordinance is adopted as a codified ordinance.

EXHIBIT A

3.04.190 Work required of employees.

A. General, Professional and Deputy Sheriffs Units. Except as may otherwise be provided, an employee who occupies a full-time, permanent position shall work forty (40) hours in each workweek.

B. General Unit Employees Subject to FLSA 7J Exemption. Employees subject to the FLSA 7J exemption shall be on an eight-hour day, eighty (80) hour work period for purposes of overtime.

C. General Unit Employees Subject to FLSA 7K Exemption. Employees subject to the FLSA 7K exemption shall work on a twenty-eight (28) day work period for purposes of overtime.

D. **PPEO.** Employees subject to the provisions of 207(k) of the Fair Labor Standards Act (FLSA) shall work a regularly recurring fourteen (14) day work period, consistent with the county's pay period schedule. Time worked in excess of eighty (80) hours during the work period shall be compensated at time and one-half or compensatory time earned at time and one-half, pursuant to the PPEO MOU. Within such work period are work schedules and shift assignments, as determined by the sheriff's office and district attorney's office.

E. Deputy Sheriffs' Association. Employees subject to the provisions of 207(k) of the Fair Labor Standards Act (FLSA) shall work a regularly recurring fourteen (14)-day work period, consistent with the county's pay period schedule. Time worked in excess of an employee's regularly scheduled shift or in excess of eighty (80) hours during the work period shall be compensated at time and one-half or compensatory time earned at time and one-half. Within such work period are work schedules and shift assignments, as determined by the sheriff's office and district attorney's office.

~~EE.~~ Deputy Sheriffs Unit Employees Subject to FLSA 7K Exemption. Employees subject to the FLSA 7K exemption shall work on a twenty-eight (28) day work period for purposes of overtime when working voluntary shifts. Mandatory overtime in excess of the forty (40) hour workweek shall be compensated at time and one-half.

Sworn personnel assigned to the corrections division may be assigned rotating workweeks of thirty-six (36) hours and forty-four (44) hours. This would be accomplished by working three twelve (12) hour days with four days off, followed by three twelve (12) hour days and one eight-hour day with three days off, which would result in one hundred sixty (160) hours of scheduled work in a twenty-eight (28) day cycle.

Officers assigned to this shift shall not be entitled to overtime for the hours worked in excess of forty (40) per week which are used to complete the work cycle.

For purposes of implementing the "3-12" shift, personnel shall only be assigned to the permanent twelve (12) hour shift at the start of a pay period and transferred off the "3-12" at the close of a pay period.

FG. Each employee shall be entitled to take one fifteen (15) minute rest period for each four hours of work performed by such employee in a work day (i.e., two fifteen (15) minute breaks for work days that consist of eight, nine or ten (10) hour shifts, and three fifteen (15) minute breaks for employees on twelve (12) hour shifts). If not taken, such rest period is waived by such employee.

GH. PPEO Represented and Confidential Employees—Extended Work Assignments. Except for a declared emergency, an employee who has worked sixteen (16) consecutive hours must be allowed a minimum of eight hours off before being required to return to work. An employee shall suffer no loss of pay nor shall there be a deduction from the employee's leave balances if this eight (8)-hour period overlaps with the employee's normal shift. (Ord. 5991-B § 1, 2019; Ord. 5683-B § 3, 2012; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; prior code § 14.201)

3.04.280 Overtime—Call-back duty.

A. PPEO Represented and Confidential Employees.

1. When an employee is called back to work after they have completed an assigned shift, the employee shall receive a minimum of two hours of call-back pay at one and one-half times the employee's hourly rate. Time worked for which the employee is entitled compensation shall include reasonable travel to the worksite.

2. Call-back pay shall not apply to situations where the employee has been retained on duty by the employee's supervisor beyond the end of the employee's shift.

3. Call-back pay at the minimum rate of one hour at one and one-half times the employee's hourly rate shall apply to those situations where an employee performs authorized work on behalf of the county without being required to physically return to work.

4. Multiple calls to the employee within a sixty (60) minute period beginning with the first call, in the same hour, shall be paid as a single call-back pay period.

B. Deputy Sheriffs Unit Court Appearances.

1. When an employee is required to appear in court in connection with their job duties on their regular day off, such employee shall be entitled to overtime. The minimum overtime to which such employee is entitled shall be ~~three~~ **four** hours at time and one-half.

2. When an employee is scheduled for a court appearance on their day off and the court appearance is cancelled after six p.m. the day prior to the scheduled appearance, they shall receive two hours' pay at their overtime rate. (Ord. 6068-B § 1, 2021; Ord. 5740-B § 3, 2014; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; Ord. 5443-B, 2007; Ord. 5442-B, 2007; prior code § 14.218)

3.04.290 Overtime—Stand-by duty.

A. Stand-by duty requires the employee so assigned:

1. To be ready to respond to calls for service; and
2. To be reachable by telephone or radio; and
3. To refrain from activities which might impair his or her ability to perform his or her assigned duties.

B. Stand-by duty may only be assigned by a department head, or designated representative.

C. For employees represented by the Placer County Deputy Sheriff's Association, stand-by duty shall be compensated as set forth in the Memorandum of Understanding between the county and the PCDSA **at a flat rate of twenty-seven dollars (\$27.00) for weekdays and thirty dollars (\$30.00) for weekends and holidays, for eight hours (one normal shift) of stand-by duty, or any portion thereof, and shall be paid in the pay period it is earned. Weekdays are defined as Monday 12:01 a.m. through Friday midnight. Holidays are defined as the County declared holiday from 12:01 a.m. to midnight.**

D. For employees represented by Placer Public Employees Organization (PPEO), stand-by duty shall be compensated as set forth in the Memorandum of Understanding between the county and PPEO.

E. Stand-by duty and stand-by compensation shall not be deemed overtime compensation for purposes of Section 3.04.230. (Ord. 5879-B § 1, 2017; Ord. 5835-B § 2, 2016; Ord. 5749-B § 1, 2014; Ord. 5747-B § 1, 2014; Ord. 5740-B § 4, 2014; Ord. 5700-B § 7, 2013; Ord. 5683-B § 6, 2012; Ord. 5478-B (Attach. A), 2007; Ord. 5309-B, 2004; prior code § 14.220)

3.08.1020 Fitness for duty evaluation during employment.

A. When, in the judgment of the appointing authority, an employee's health, or physical or mental condition is such that it is desirable to evaluate ~~his or her~~ **the employee's** capacity to perform the duties of ~~his or her~~ **their** position, the appointing authority shall require the employee to undergo a fitness for duty medical or psychological evaluation. Such evaluation shall be by a physician **or psychologist** selected by the county.

B. The examining physician **or psychologist** shall state whether, in ~~his or her~~ **their** opinion, the employee is able to properly perform the essential job duties/functions of the position. Such determination shall be based upon the essential job duties/functions and the diagnosis or injury/illness, and whether the employee's condition can be remedied within a reasonable period of time.

C. If the examining physician **or psychologist** finds the employee unfit to perform the essential job duties/functions of ~~his or her~~ **the** position, the employee may, within fourteen (14) calendar days after notification of the determination, submit a written request to the county disability management administrator to provide additional information to the examining physician **or psychologist** for review. The additional information provided must be relevant to the nature and extent of the medical condition(s) which relates to the employee's inability to perform essential job duties/functions. All costs associated with obtaining/providing additional medical information relating to this appeal are the financial responsibility of the employee.

D. Further medical information provided by the employee will then be submitted directly to the examining physician **or psychologist** who completed the initial review. The physician **or psychologist** will review the additional information and determine whether or not the employee can properly perform the essential job duties/functions of ~~his or her~~ **the** position. The employee shall not be entitled to a second evaluation by another physician **or psychologist**. (Ord. 5700-B § 31, 2013; Ord. 5683-B § 38, 2012; Ord. 5478-B (Attach. A), 2007; prior code § 14.1971)

3.12.020 Classified service—Salary and benefits notations.

1. For employees represented by the Placer County Deputy Sheriff's Association (PCDSA) floating holiday shall be taken within the calendar year granted and shall not carry over from year to year. Unused holiday time will not be compensated upon termination.

2. Uniform Allowance—Sworn Peace Officers.

Deputy Sheriff I

Deputy Sheriff II

Sheriff's Captain

Sheriff's Lieutenant

Sheriff's Sergeant

a. If required by the county to wear a uniform as a regular part of their duties, a uniform allowance shall be paid on a biweekly basis. This shall not affect reserve deputies, honorary deputies and other county officers and employees deputized for special purposes. New employees will be advanced the first year's uniform allowance in their first full paycheck and receive uniform allowance on a biweekly basis upon their first-year anniversary.

b. The uniform allowance is one thousand sixty-five dollars (\$1,065.00) per year for Auburn area and one thousand two hundred fifteen dollars (\$1,215.00) per year for Tahoe area.

c. Employees appointed or reassigned to Dutch Flat or Foresthill resident deputy or to any position east of Serene Lakes shall receive a one-time winter clothing stipend in the amount of two hundred fifty dollars (\$250.00).

d. If purchase of the campaign hat is mandatory, the sheriff's department will pay for the cost of the hat and will reimburse association members immediately upon provision of a receipt.

3. Career and Education Incentive. Full-time permanent employees in the following classes shall be eligible for the career and education incentive:

Deputy Sheriff I
Deputy Sheriff II
Investigator—District Attorney
Investigator—Supervising District Attorney
Investigator—Welfare Fraud
Investigator—Welfare Fraud—Supervising
Sheriff's Captain
Sheriff's Lieutenant
Sheriff's Sergeant

~~a.~~ a. Basic POST.

~~i.~~ i. For employees represented by the PCDSA, Basic POST pay shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCDSA.

~~a.b.~~ a.b. Intermediate POST.

i. For employees represented by the Placer County Law Enforcement Association (PCLEMA), compensation for POST intermediate certificate shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCLEMA.

ii. For employees represented by the PCDSA, Intermediate POST pay shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCDSA as follows:

<u>Deputy Sheriff I</u>	<u>\$735/month</u>
<u>Deputy Sheriff II</u>	<u>\$1,030/month</u>
<u>Sheriff's Sergeant</u>	<u>\$1,225/month</u>
<u>Investigator – District Attorney</u>	<u>\$1,285/month</u>
<u>Investigator – Welfare Fraud</u>	<u>\$1,285/month</u>
<u>Investigator – Welfare Fraud – Supervising</u>	<u>\$1,385/month</u>

~~b.c.~~ b.c. Advanced POST.

i. For employees represented by PCLEMA, compensation for POST advanced certificate shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCLEMA.

ii. For employees represented by the PCDSA, Advanced POST pay shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCDSA as follows:

<u>Deputy Sheriff I</u>	<u>\$1,040/month</u>
<u>Deputy Sheriff II</u>	<u>\$1,460/month</u>
<u>Sheriff's Sergeant</u>	<u>\$1,735/month</u>
<u>Investigator – District Attorney</u>	<u>\$1,825/month</u>
<u>Investigator – Welfare Fraud</u>	<u>\$1,825/month</u>
<u>Investigator – Welfare Fraud – Supervising</u>	<u>\$1,960/month</u>

~~c.d.~~ c.d. Full-time permanent employees represented by the PCDSA or PCLEMA will be eligible for educational incentive pay. To be eligible for educational incentive pay the degree must be from an

accredited college, consistent with the human resources department practices in determining validity of the college and degree. Employees must present evidence of successful completion of a qualifying degree, consistent with this section to their department head, which shall determine and certify whether employees are eligible to receive educational incentive pay.

- i. For employees represented by the PCDSA, the amount of the educational incentive for AA, BA or MA degrees shall be as set forth in the Memorandum of Understanding between Placer County and the PCDSA follows:

<u>Associate degree (AA)</u>	<u>\$100/pay period</u>
<u>Bachelor's degree (BA)</u>	<u>\$125/pay period</u>
<u>Master's degree (MA)</u>	<u>\$175/pay period</u>

- ii. For employees represented by the PCLEMA, the amount of the educational incentive for AA, BA or MA degrees shall be as set forth in the Memorandum of Understanding between Placer County and the PCLEMA.

d.e. Employees may not receive educational incentive pay for more than one degree. The payments are not cumulative and only one degree qualifies for payment.

4. Uniform Allowance—PPEO Represented Employees. Uniform allowances shall be processed as a non-reimbursable, taxable, bi-weekly pay in accordance with procedures established by the Auditor Controller's office.

a. Seven Hundred Fifty Dollar (\$750.00) Allowance. An annual uniform allowance for employees who are required to wear a uniform as a regular part of their duties will be paid for the following class series in the amount of seven hundred fifty dollars (\$750.00) per year:

Administrative Clerk
Administrative Legal Clerk
Accounting Assistant
Public Safety Dispatcher
Probation Department Staff Services Analyst
Probation Assistant
Probation Department Information Technology
Probation Department Executive Secretary
Probation Department Administrative Technician
Animal Care Attendant

b. One Thousand Sixty-Five Dollar (\$1,065.00) Allowance. An annual uniform allowance for employees who are required to wear a uniform as a regular part of their duties will be paid, for the following class series, in the amount of one thousand sixty-five dollars (\$1,065.00) per year:

Agricultural and Standards Inspectors
Animal Control Officer
Community Service Officer
Correctional Officer
Environmental Health Specialists
Environmental Health Technical Specialists

Environmental Health Technicians
Evidence Technician
Deputy Probation Officers – Field
Deputy Probation Officers – Institution
Investigative Assistant

5. Family and Children's Services (FACS) Unit Pay. Designated employees shall be paid five percent if they have been assigned to field activities of the Family and Children's Services (FACS) Unit or perform after hours responsibilities related to emergency child protective duties.

6. Special Teams Pay—Sworn Peace Officers. Special pay will be as follows for those employees assigned to the following special teams without regard to call-out:

a. Special Teams Pay and related special assignment pay shall be as set forth in the Memorandum of Understanding between the county and the PCLEMA.

b. Special Teams Pay and related special assignment pay **for employees represented by the PCDSA and assigned by the Sheriff to the following special teams, without regard to call out, shall be:** ~~shall be as set forth in the Memorandum of Understanding between the county and the PCDSA~~

- i. **Special Enforcement Team pay of \$150.00 per month.**
- ii. **Certified Divers Pay of \$150.00 per month.**
- iii. **Hostage Negotiations Team pay of \$150.00 per month.**
- iv. **Explosive Ordinance Detail pay of \$150.00 per month.**
- v. **Air Support Team pay of \$150.00 per month.**
- vi. **Detective Division Premium Pay of \$510 per month for employees designated by the Sheriff to work in the Investigations Division or by the District Attorney to work in an undercover capacity.**

7. Cell Extraction Response Team (CERT) Pay—PPEO Correctional Officers. The county will pay one hundred twenty-five dollars (\$125.00) per month special team pay for those correctional officers assigned by the sheriff to participate on the CERT Team.

8. Night Shift Differential.

a. PPEO General and Professional Units and Confidential Employees.

i. For the purposes of this subsection, "regularly assigned to work," means the hourly work schedule assigned to each employee.

ii. All employees regularly assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. shall receive a night shift differential of seven and one-half percent of base pay for all hours worked.

iii. All employees regularly assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. shall continue to receive the seven and one-half percent shift differential even when they work hours outside of the five p.m. to six a.m. time period.

iv. All employees who are not regularly assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. shall receive a night shift differential of seven and one-half percent of base pay for all hours worked between the hours of five p.m. and six a.m., provided the employee works a minimum of three hours between the period of five p.m. and six a.m., excluding any hours that are part of the employee's regular shift.

b. ~~PCDSA. Employees assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. on one or more shifts shall receive a shift differential of seven and one-half percent of base pay for all hours worked. Employees regularly assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. shall continue to receive the seven and one-half~~

percent shift differential even when they work shifts that would otherwise not qualify for shift differential payments. Employees whose normal work shift does not qualify for night shift differential shall receive night shift differential when working a qualifying shift (fifty (50) percent or more of the hours are between the hours of five p.m. and six a.m.) **For the purposes of this section, "Regularly assigned to work" means the hourly work schedule assigned on a quarterly basis to each employee.**

- i. **Employees other than those regularly assigned to work at the jail shall receive a shift differential of \$4.41 per hour for any hours worked between 4:30 p.m. and 6:30 a.m., provided they work a minimum of one hour during that time period.**
- ii. **Employees regularly assigned to work at the jail shall receive a shift differential of \$4.41 per hour for any hours worked between 4:30 p.m. and 6:30 a.m., provided they work a minimum of three hours during the time frame.**
- iii. **Employees regularly assigned to work 50% or more of their hours between the hours of 4:30 p.m. and 6:30 a.m. shall continue to receive the \$4.41 per hour shift differential even when they work additional shifts that would otherwise not qualify for shift differential payments.**

c. PCLEMA. Employees assigned to work a majority of hours of a regular shift (e.g., five hours of eight) between the hours of five p.m. (Day 1) and eight a.m. (Day 2) shall receive a night shift differential of seven and one-half percent for all hours in that shift.

9. Rain Gear. Once every three years, employees assigned to the following areas shall be provided with rain gear, including coat, pants and boots, as deemed necessary by the appointing authority: roads, utility service workers, building maintenance, document solutions, central stores, animal control officers, TART bus drivers, building inspectors, mini-bus drivers, park and grounds workers, communications, garage, engineering technicians (when assigned field inspection duties), environmental health workers, IT analysts, IT technicians, and deputy probation officers assigned to field duties. The appointing authority can replace an employee's rain gear more often as they deem necessary.

10. Supplemental Compensation—Declared Snow Shift Assignments.

a. The county will pay an assignment differential of ten (10) percent of base salary to each employee assigned by the appointing authority, or designee, to perform snow removal duties. No employee will receive work out of class pay for the purpose of performing snow removal duties.

b. The number eligible and time period for which such status is available shall be determined jointly by the director of public works and the county executive office.

c. Such compensation shall be in addition to any overtime to which the employee is entitled under the provisions of Section 3.04.240, et seq.

11. Bi-Lingual Pay. ~~PPEO Represented, Management, Confidential, PCDSA Represented and PCLEMA Represented Employees.~~ Upon request of the department head and approval of the director of human resources, designated employees shall be paid an additional five percent of base salary for the use of a second language in the normal course and scope of work. Sign language shall constitute a second language within the meaning of bilingual pay provided that the requisite certification procedures as defined by the director of human resources have been completed.

- i. **PPEO Represented, Management, Confidential, Safety Management and PCLEMA Represented employees shall be paid an additional five percent (5%) of base salary.**
- ii. **PCDSA Represented employees shall be paid an additional \$464 per month.**

12. Universal Technician Pay. Upon request of the department head, and approval by the director of human resources, the county will pay an additional five percent of base hourly rate, plus longevity if applicable, to employees who have been certified as a universal technician as required by 40 CFR Part 82, subpart F, and who are assigned duties in the department of facilities management that are consistent with that certification.

13. Tool Reimbursement. The following classifications shall receive a seven hundred fifty dollar (\$750.00) per year tool replacement allowance to be reimbursed quarterly in accordance with procedures established by the auditor controller's office. No more than one claim may be submitted for reimbursement in any calendar quarter. Classifications eligible for this personal reimbursement shall include:

11604	Automotive Mechanic
11605	Master Automotive Mechanic
11611	Equipment Mechanic
11613	Master Equipment Mechanic
11601	Equipment Service Worker I
11602	Equipment Service Worker II
13302	Supervising Mechanic

14. Jail Administrative Legal Clerk Training Pay. The county shall pay a differential of five percent of base salary to each employee in the classification of administrative legal clerk-journey and administrative legal clerk-senior who is assigned by the sheriff to work as a jail administrative legal clerk trainer. It shall be understood that the above-described training pay shall be paid to an employee only during the time assigned jail administrative legal clerk trainer responsibilities. Payment of said training pay to that employee shall cease at the time the sheriff terminates the jail administrative legal clerk training responsibilities or reassigns training responsibilities to another employee.

15. Field or Jail Training Officer.

a. The county shall pay ~~a differential of five percent of base salary~~ **\$389 per month** to each employee in the classification of deputy sheriff II who is assigned by the sheriff to work as a field training officer or as a jail training officer; provided that not more than twelve (12) employees shall receive the said ~~five percent pay differential~~ at any one time.

b. The county shall pay a differential of five percent of base salary to each employee in the classification of correctional officer II who is assigned by the sheriff to work as a jail training officer.

c. It shall be understood that the above-described salary differentials shall be paid to an employee only during the time they are assigned formal field training or jail training responsibilities. Payment of said differential to that employee shall cease at such time as the sheriff shall terminate the field training responsibilities or reassign same to another employee.

16. Public Safety Dispatcher Training Pay. The county shall pay a differential of five percent of base salary to each employee in the classification of public safety dispatcher II who is assigned by the sheriff to work as a dispatch trainer. It shall be understood that the above-described salary differential shall be paid to an employee only during the time they are assigned dispatcher trainer responsibilities. Payment of said differential to that employee shall cease at such time as the sheriff shall terminate the dispatcher trainer responsibilities or reassign same to another employee.

17. POST Dispatcher Certificate Pay. Employees permanently allocated to the classifications of public safety dispatcher I, public safety dispatcher II, supervising public safety dispatcher, and dispatch services supervisor will be eligible for the following certificate pays:

a. Incentive pay for possession of a POST dispatcher intermediate certificate will be one hundred dollars (\$100.00) per pay period.

b. Incentive pay for possession of a POST dispatcher advanced certificate will be one hundred twenty-five dollars (\$125.00) per pay period.

c. The above incentive amounts are not cumulative or compounded and employees will receive only one rate of incentive pay for the POST certification.

18. Lateral Signing Bonus. Public safety dispatcher II, supervising public safety dispatcher, and dispatch services supervisor; applicants with prior dispatch experience who are hired into permanently allocated positions will be eligible for the following one-time incentives upon their initial hire to the county:

- a. An initial payment of one thousand five hundred dollars (\$1,500.00) will be added to the first paycheck earned, and
- b. A second/final payment of one thousand dollars (\$1,000.00) will be paid out upon the successful completion of the entire probationary period as determined by the sheriff.

19. PPEO Professional Unit, Confidential and Management. The county shall pay a differential of five percent of base salary to each employee who obtains a certificate as a certified public accountant and who, with the concurrence of the county executive officer, makes use of the CPA in the course and scope of their employment.

20. Canine Pay. Sworn peace officers represented by ~~PCDSA~~ or PCLEMA and PPEO correctional officer classifications assigned by the sheriff or district attorney to the duty of supervision, care and feeding of a canine, as "canine handlers," shall receive canine pay of three hundred dollars (\$300.00) per month. **PCDSA Canine Handlers shall receive Canine Pay of five hours per 14-day work period, paid at the overtime rate of time and one-half the employee's base hourly rate of pay.**

a. All veterinary care and maintenance of the canine is to be provided at county expense. It is agreed that care and maintenance includes: veterinary care necessary to prevent and treat injuries and diseases, annual physical exams, and inoculations. County-owned canines shall receive veterinary care from a county designated veterinarian. Canine handler-owned canines may receive treatment from a county-designated veterinarian or one of the canine handler's choosing. Veterinary expenses incurred through county-designated veterinarians will be paid by the county through direct billing by the veterinarian. Expenses incurred through a veterinarian of the canine handler's choice will be paid by reimbursement to the canine handler for receipted claims, provided that in no event shall reimbursement exceed the amount normally paid to a county-designated veterinarian for the same or similar service. Food for the canine will be provided at the expense of the county through an established blanket purchase order and policy developed by the sheriff's department.

b. The county will provide for the replacement of the canine should it be disabled or killed as a result of a line-of-duty injury or accident at no expense to the canine handler.

c. This care and maintenance pay is granted in recognition of the personal monetary investment, duties and responsibilities of a canine handler, in light of the on-duty time already being provided and includes the time spent by the canine handler employee while off duty in the care and maintenance of the assigned canine, as well as reimbursement of canine related expenses. It represents good faith compensation associated with the daily care and maintenance of a canine outside the normal hours of work of the assigned canine handler employee during the month. The intent of this pay is to ensure compliance with all applicable state and federal labor laws, including, but not limited to, the Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., and 29 C.F.R. Section 785.23.

21. Jail Incentive Pay.

a. The county will pay an assignment differential of five percent of base salary to each employee in qualifying jobs, assigned to report to and work within the jail facility on a regular full or part-time basis. The qualifying jobs are:

Accounting Assistant—Entry/Journey/Senior

Accounting Technician

Administrative Clerk—Entry/Journey/Senior

Administrative Legal Clerk—Entry/Journey/Senior

Administrative Legal Supervisor

Administrative Secretary
Building Craft Mechanic/Senior Building Craft Mechanic
Client Services Counselor—I/II/Senior
Client Services Practitioner—I/II/Senior
Custodian—I/II

b. Senior administrative legal clerks assigned to work as shift supervisors will receive an additional five percent of base salary.

22. LCSW/MFT/MFCC Pay. The county shall pay an additional five percent of base hourly rate, plus longevity if applicable, to each employee in the classifications of client services practitioner I/II/senior and client services program supervisor, who obtains a certificate as a licensed clinical social worker (LCSW); marriage and family therapist (MFT); marriage, family, child counselor (MFCC); licensed professional counselor (LPCC); licensed psychologist (Ph.D. and Psy.D.).

23. Work Boot/Safety Shoe Allowance.

a. Each employee in the classifications listed below shall receive an annual work boot/safety shoe allowance of three hundred dollars (\$300.00). The annual safety shoe allowance shall be paid in equal payments each pay period. Employees receiving such allowance shall be required to wear work boots or safety shoes at all times while performing their job duties.

Agricultural and Standards Inspector I/II/Senior/Supervising
Animal Care Attendant
Animal Control Officer I/II/Senior/Supervising/Supervising Senior
Assistant Road Superintendent
Automotive Mechanic/Master Automotive Mechanic
Building Crafts Mechanic/Senior/Supervising
Building Inspector I/II/Senior/Supervising
Bus Driver I/II/Senior
Code Compliance Officer I/II/Supervising
Custodian I/II/Senior/Supervising
Emergency Services Specialist I/II/Senior
Engineering Technician I/II
Environmental Health Specialist—Registered—Assistant/Associate/Senior/Supervising
Environmental Health Technical Specialist
Environmental Health Technician I/II/Senior
Equipment Mechanic/Master Equipment Mechanic
Equipment Mechanic/Welder
Equipment Operator/Equipment Operator—Senior
Equipment Services Worker I/II
Fleet Services Technician
Information Technology Analyst I/II/Senior (Assigned to Telecommunications)
Information Technology Technician I/II/Supervisor (Assigned to Telecommunications)
Maintenance Worker
Mechanic—Supervising

Park and Grounds Worker/Senior/Supervising
 Road District Supervisor/Road District Supervisor—Senior
 Storekeeper
 Surveyor Assistant/Associate/Senior
 Traffic Sign Maintenance Worker/Senior
 Traffic Sign Supervisor/Traffic Sign Supervisor—Senior
 Transportation Supervisor
 Tree Trimmer/Tree Trimmer—Senior
 Tree Maintenance Supervisor/Tree Maintenance Supervisor—Senior
 Utility Service Worker/Senior/Supervising
 Utility Operations Supervisor
 Waste Disposal Site Attendant/Senior/Supervisor
 Wildlife Specialist

b. Administrative Dispatcher Assigned to Tahoe. Employees in the department of public works assigned to the classification of administrative dispatcher assigned to Tahoe shall receive an annual work boot/safety shoe allowance of one hundred fifty dollars (\$150.00) per year. The annual work boot/safety shoe allowance shall be paid in equal payments each pay period. Employees receiving such allowance shall be required to wear work boots or safety shoes at all times while performing their job duties.

24. Inmate Oversight Pay—PPEO Represented Employees. Inmate oversight pay shall be as set forth in the Memorandum of Understanding.

25. Wellness Incentive—PCLEMA. Wellness incentive pay shall be as set forth in the Memorandum of Understanding between the county and the PCLEMA.

26. PPEO represented employees may receive a pay differential of two and one-half percent of base salary for special skill certification(s) and/or licenses. To qualify, the certification(s) shall meet the following criteria:

- a. Certification/license is for the performance of duties required by the county and approved by the employee's appointing authority and the county executive officer.
- b. Certification/license is for the performance of duties not specified in the employee's job classification and/or required as a minimum qualification.
- c. Certification/license must be required by the state of California or a regulatory agency in order to perform or oversee the duties.
- d. Certification/license must be renewable and be kept current.
- e. Certification/license duties are not already identified for additional compensation in the current MOU between PPEO and the county.

The pay differential will cease under any of the following conditions:

- i. The employee's duties or work assignment change,
- ii. The certification/license is no longer necessary or applicable,
- iii. The certification/license is not used or required to perform the duties, or
- iv. The employee fails to maintain the certification/license.

27. Building Inspector Certificate Pay. Certificates that are attained by employees in the classifications of building inspector I/II, senior, and supervising, beyond those presented to meet the minimum qualification as stated in the class specifications shall be compensated at the rate of fifty dollars

(\$50.00) per certificate per month up to a maximum of two hundred dollars (\$200.00) per month for each of the certificates listed: plans examiner, plumbing, mechanical, electrical (commercial or residential). The county will reimburse a qualifying employee for all initial exams and renewal fees associated with the above certificates for up to three exams per year.

28. Undercover Pay. An employee within the following classifications designated by the sheriff and the chief probation officer to work an undercover assignment shall receive five percent additional compensation:

Deputy Probation Officer I/II

Senior and Supervising Deputy Probation Officer

29. Confidential Pay. Permanent employees in positions designated as confidential, as defined in the Placer County Employer and Employee Relations Policy, shall receive three and one-half percent additional pay.

30. Licensure/Certification. Management employees in the health and human services department who possess and use specialty licensure or certification which is above the minimum qualification and used during the normal course and scope of their position will receive a pay differential of five percent of base salary; example, licensed clinical social worker (LCSW).

31. Tuition Reimbursement. Pursuant to the terms and conditions set forth in the county's tuition reimbursement policy, classified management employees are eligible for tuition reimbursement in the amount of one thousand two hundred dollars (\$1,200.00) per calendar year. PPEO and PCDSA represented employees may be eligible for tuition reimbursement pursuant to the applicable memorandum of understanding.

32.

ADMIN.

CODE	CLASSIFICATION TITLE
15585	Architectural Assistant I *a
14210	Architectural Assistant II *a
14207	Assistant Surveyor *b
13545	Capital Improvements Manager *a
14202	Engineer – Assistant *b
13522	Property Manager *a
13519	Utility Program Manager *b

*a All employees in this class shall be paid at the corresponding step of the next higher salary grade upon presentation of the certificate of registration as a licensed architect issued by the California State Board of Architectural Examiners.

*b The county will pay an additional five percent of the base hourly rate, plus longevity if applicable, upon presentation of a certificate of registration as a civil engineer or land surveyor issued by the California State Board of Registration for Professional Engineers.

33. All pays listed in this section must meet the CalPERS definition of special compensation to be considered reportable. CalPERS solely determines whether any or all pays listed in this section meet the CalPERS definition of special compensation for the calculation of retirement benefits. The county is not responsible for reporting any pays not determined by CalPERS to be reportable. (Ord. 6068-B § 1, 2021; Ord. 6062-B § 1, 2020; Ord. 5991-B § 1, 2019; Ord. 5903-B § 2, 2018; Ord. 5894-B § 4, 2017; Ord. 5885-B § 3, 2017; Ord. 5879-B § 11, 2017; Ord. 5835-B § 1, 2016; Ord. 5766-B § 1, 2015; Ord. 5740-B §§ 15—18, 2014; Ord. 5719-B § 3, 2013; Ord. 5700-B § 37, 2013; Ord. 5683-B § 49, 2012; Ord. 5608-B § 6, 2010; Ord. 5597-B, 2010; Ord. 5572-B § 17, 2009; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; Ord. 5472-B, 2007; Ord. 5451-B, 2007; Ord. 5448-B, 2007; Ord. 5447-B, 2007; Ord. 5443-B, 2007; Ord. 5442-B, 2007; Ord. 5441-B, 2007; Ord. 5428-B, 2006; Ord. 5426-B, 2006; Ord. 5422-B, 2006; Ord. 5414-

B, 2006; Ord. 5410-B, 2006; Ord. 5396-B, 2006; Ord. 5391-B, 2005; Ord. 5386-B, 2005; Ord. 5382-B, 2005; Ord. 5379-B, 2005; Ord. 5372-B, 2005; Ord. 5363-B, 2005; Ord. 5361-B, 2005; Ord. 5349-B, 2005; Ord. 5343-B, 2004; Ord. 5337-B, 2004; Ord. 5336-B, 2004; Ord. 5334-B, 2004; Ord. 5314-B, 2004; Ord. 5312-B, 2004; Ord. 5311-B, 2004; Ord. 5309-B, 2004; Ord. 5303-B, 2004; Ord. 5297-B, 2004; Ord. 5288-B, 2004; Ord. 5286-B, 2004; Ord. 5281-B, 2004; Ord. 5279-B, 2003; Ord. 5267-B, 2003; Ord. 5263-B, 2003; Ord. 5261-B, 2003; Ord. 5260, 2003; Ord. 5257-B, 2003; Ord. 5256-B, 2003; Ord. 5254-B, 2003; Ord. 5247-B, 2003; Ord. 5240-B, 2003; Ord. 5230-B, 2003; Ord. 5224-B, 2003; Ord. 5216-B, 2002; Ord. 5215-B, 2002; Ord. 5205-B, 2002; Ord. 5203, 2002; Ord. 5197-B, 2002; Ord. 5194-B, 2002; Ord. 5193-B, 2002; Ord. 5189-B, 2002; Ord. 5186-B, 2002; Ord. 5172-B, 2002; Ord. 5165-B, 2002; Ord. 5164-B, 2002; Ord. 5163-B, 2002; Ord. 5160-B, 2002; Ord. 5153-B, 2002; Ord. 5150-B, 2002; Ord. 5139-B, 2001; Ord. 5138-B, 2001; Ord. 5137-B, 2001; Ord. 5115-B, 2001; Ord. 5099-B, 2001; Ord. 5100-B, 2001; Ord. 5107-B, 2001; Ord. 5111-B, 2001; Ord. 5095-B, 2001; Ord. 5089-B, 2001; Ord. 5085, 2001; Ord. 5083-B, 2001; Ord. 5075-B, 2001; Ord. 5069-B, 2000; Ord. 5062-B, 2000; Ord. 5058-B (Attach. 1, 2, 5, 6, 7, 8, 9, 28, 30), 2000; Ord. 5044-B, 2000; Ord. 5040-B, 2000; Ord. 5032-B, 2000; Ord. 5029-B (Attach. A, D, F), 2000; Ord. 5028-B, 2000; Ord. 5026, 2000; Ord. 5017-B, 2000; Ord. 5014-B, 2000; Ord. 4998-B, 1999; Ord. 4988-B, 1999; Ord. 4986-B, 1999; Ord. 4970-B, 1999; Ord. 4967-B, 1999; Ord. 4963-B, 1999; prior code § 14.3000)

3.12.040 Salaries—Placer County sheriff's ordinance initiativeAll represented employees. Pursuant to Article XI, Sections 1, 3, and 4 of the California Constitution, Sections 302 and 604 of the Placer County Charter, adopted by the electorate on November 4, 1980, and California Government Code Sections 3504 and 3505, the Board of Supervisors shall negotiate and set compensation for all employees represented by PPEO, PCLEMA, and DSA.

~~A. The board of supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County sheriff's office, El Dorado County sheriff's office, and Sacramento County sheriff's office for each class of position employed by said agencies.~~

~~B. Effective January 1, 1977, and effective January 1st of each year thereafter the board of supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first period following January shall fix the average salary for each class of position in the Placer County sheriff's office at a level equal to the average of the salaries for the comparable positions in the Nevada County sheriff's office, El Dorado County sheriff's office and the Sacramento County sheriff's office.~~

~~C. As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:~~

~~1. Corporal, sergeant, deputy.~~

~~D. The provisions of this chapter shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are not elected by popular vote. (Ord. 6060-B § 1, 2020; Ord. 5478-B (Attach. A), 2007; Ord. 5441-B, 2007; prior code § 14.3005)~~

3.12.060 Longevity pay.

A. PPEO Represented, Management, Confidential and Unclassified Nonmanagement Employees. Effective the first day of the pay period that includes November 1, 2019 and subject to the conditions specified herein, PPEO Represented, Management, Confidential and Unclassified Nonmanagement Employees shall be eligible for longevity pay under one of the following formulas.

1. Longevity Pay A. This category of longevity pay applies only to permanent employees who are already receiving longevity pay on or before October 31, 2019. For this category, each permanent employee will continue to receive longevity pay, which is a one-time five percent increase, calculated

pursuant to subsection (A)(5). The basis to receive longevity pay will be determined by either one (but not both) of the following two formulas:

a. The permanent employee has been at step 5 of their salary grade for ten thousand four hundred (10,400) paid hours (five years continuous full-time paid service) with Placer County.

b. The permanent employee has worked at least ten thousand four hundred hours (10,400) paid hours (five years of continuous full-time paid service) calculated from the beginning of employment with Placer County.

2. Longevity Pay B. This category of longevity pay applies to permanent employees hired on or before October 31, 2019, that have not qualified for longevity pay by October 31, 2019. For this category, each permanent employee who has at least twenty thousand eight hundred (20,800) continuous paid hours calculated from the beginning of employment (ten (10) years of continuous full-time paid service) with Placer County shall receive as longevity pay a two percent increase, calculated pursuant to subsection (A)(5). Each permanent employee who has at least thirty-one thousand two hundred (31,200) continuous paid hours calculated from the beginning of employment (fifteen (15) years of continuous full-time paid service) shall receive as longevity pay a three percent increase, calculated pursuant to subsection (A)(5). This category of longevity pay shall be calculated on a cumulative basis to equal no more than five percent in total.

3. Longevity Pay C. This category of longevity pay applies solely to retirees of the county with a retirement date of October 31, 2019, or earlier that were PPEO Represented, Management, Confidential and Unclassified, Nonmanagement Employees that had received longevity pay prior to his or her retirement. For this category, each retiree that received longevity pay on or before October 31, 2019, is deemed to have earned longevity pay under one of the following two formulas:

a. The retiree was a permanent employee that had been at step 5 of their salary grade for ten thousand four hundred (10,400) paid hours (five years full-time paid service) with Placer County.

b. The retiree was a permanent employee that worked at least ten thousand four hundred hours (10,400) paid hours (five years of continuous full-time paid service) calculated from the beginning of employment with Placer County.

If the retiree had not received longevity pay prior to their retirement on or before October 31, 2019, this subsection does not grant or change the longevity pay status to the retiree as it applies only to retirees that had already received longevity pay on or before October 31, 2019.

4. PPEO represented, management, confidential and unclassified nonmanagement employees permanently hired on or after November 1, 2019, shall not be eligible for longevity pay.

5. Longevity pay shall be applied to current base hourly rate published in the salary schedule plus percentage-based special compensation identified in Section 3.12.020 or 3.12.030 of this code, as applicable.

6. For purposes of Longevity Pay A employees and Longevity Pay C retirees of the County with a retirement date of October 31, 2019, or earlier, an employee or retiree who took a voluntary demotion, transfer or reclassification to a lower salary grade is deemed to have the previously earned work hours at the higher salary grade count towards the longevity pay calculation in the lower salary grade.

7. Any form of overtime hours, extra-help hours and time off without pay regardless of the reason, will not be included for purposes of determining eligibility for longevity pay under any of the longevity pay formulas.

8. Eligible employees or retirees can qualify for longevity pay only pursuant to one of the longevity pay formulas. Once a longevity increase has been provided to an employee it will remain with the employee regardless of any future position or classification changes.

9. Employees who separate from county service, but who reinstate at a future date, will follow the reinstatement provisions found in Section 3.08.1150 for eligibility for longevity pay.

10. Probation officer series employees who have received the ten (10) year and/or twenty (20) year longevity pay under the DSA MOU and subsection B of this section as of April 1, 2008, will continue to receive said pay in a grandfathered status. Probation officer series employees will follow the PPEO professional unit longevity provision if they had not received longevity pay as of April 1, 2008.

B. Deputy Sheriffs' Association and Safety Management. Permanent employees meeting the following criteria shall be eligible to receive two five percent increases, calculated pursuant to subsection(B)(3), which shall be referred to as "longevity pay." As to either step alternative, a break in service will result in a new calculation for a new five or ten (10) year period, and no service prior to the break will be counted as part of the new five or ten (10) year period. Extra help time and time off without pay will not be included as part of this calculation. Time off without pay for disciplinary reasons or unpaid leave of absence will not constitute a break in service. Time off for these reasons will not count toward the completion of the required service time.

1. Longevity Pay 1 (Five Percent). An employee is eligible for five percent longevity pay upon meeting the requirements in either subsection (B)(1)(a) or (b), but cannot earn both:

a. Each permanent employee who has been at step 5 of their salary grade in the same classification for ten thousand four hundred (10,400) paid hours (five years full-time paid service) with Placer County shall be eligible. **This special compensation is not reportable to CalPERS.**

b. Each permanent employee who has at least twenty thousand eight hundred (20,800) paid hours (ten (10) years of full-time paid service) with Placer County shall be eligible.

2. Longevity Pay 2 (Additional Five Percent for a Total of Ten (10) Percent). Each permanent employee who has at least forty-one thousand six hundred (41,600) paid hours (twenty (20) years of full-time paid service) with Placer County, shall receive an additional five percent increase, calculated pursuant to subsection (B)(3).

3. Longevity shall be applied to current base hourly rate published in the salary schedule plus percentage-based special compensation identified in Section 3.12.020 of this code, as applicable. For safety management, classified and unclassified, longevity shall be applied to base hourly rate plus percentage-based special compensation identified in Section 3.12.020 or 3.12.030 of this code and flat special compensation allowances for POST intermediate certificate, POST advanced certificate, undercover assignment, and wellness, as applicable.

4. Employees who separate from county service, but who reinstate at a future date will follow the reinstatement provisions for eligibility for longevity pay; within two years maintains prior eligibility; two years or more is treated as a new employee.

5. Any form of overtime hours, extra help hours and time off without pay regardless of the reason will not be included for purposes of eligibility for longevity.

6. Once such longevity increase (longevity pay 1 and 2) **has** been provided to an employee, that employee shall have no further right to a longevity increase. The longevity increase(s) will remain with the employee regardless of any future position or classification changes.

C. Elected Department Heads. Effective January 13, 2001, and continuing thereafter, elected department heads shall be eligible at the beginning of the first full pay period of the seventh year in office to receive a one-time five percent increase in their then current salary. This longevity pay shall be calculated only on a cumulative basis with any other longevity pays earned under subsection A or B. Longevity shall be applied to current base hourly rate published in the salary schedule plus percentage-based special compensation identified in Section 3.12.030 of this code and flat special compensation allowances for POST intermediate certificate, POST advanced certificate, undercover assignment, and wellness, as applicable. (Ord. 6072-B § 1, 2021; Ord. 6068-B § 1, 2021; Ord. 5992-B § 1, 2019; Ord.

3.12.080 Tahoe branch assignment premium.

Employees meeting the following criteria shall receive the following monthly additional compensation:

A. Confidential, Management, and Unclassified Employees permanently assigned to a position located in the North Lake Tahoe area and who reside within fifty (50) driving miles of the Placer County Tahoe Administrative Center, located at 775 N. Lake Blvd in Tahoe City, will qualify for the Tahoe Branch Assignment Premium.

1. Effective the first pay period following July 1, 2019, Tahoe Branch Assignment Premium shall be eight hundred and seventy-five dollars (\$875) per month.
2. Employees will be required to request the Tahoe Branch Assignment Premium and will need to demonstrate and certify residency within the specified areas.
3. Employees will be required to notify Human Resources if they no longer reside in an area qualifying for Tahoe Branch Assignment Premium.
4. Employees already receiving Tahoe Branch Assignment Premium at the time this ordinance is effective will continue to receive the premium for the uninterrupted and continuous duration of the employee's position in the North Lake Tahoe area. If an employee no longer occupies a position in the North Lake Tahoe area, but resumes a position in the North Lake Tahoe area after the adoption of this agreement, the residency requirement of this section will apply to the employee upon re-occupying the same or different position in the North Lake Tahoe area.
5. Residency under this section shall be determined in accordance with California Government Code Section 244.

B. For employees represented by the Placer County Law Enforcement Management Association, Tahoe Branch Assignment Premium Pay shall be as set forth in the Memorandum of Understanding between the county and the PCLEMA.

C. For employees represented by the ~~Placer County Deputy Sheriff's Association~~ **PCDSA**.

- 1. Tahoe Branch Assignment Premium Pay shall be as set forth in the Memorandum of Understanding between the county and the PCDSA eight hundred seventy-five dollars (\$875) per month.**
- 2. Effective October 9, 2021, employees hired into or transferring into a position located in the North Lake Tahoe area and who have a primary residence or rent a dwelling within 50 driving miles of the Placer County Sheriff's Office Burton Creek substation will qualify for the Tahoe Branch Assignment Premium.**
 - a. Employees will be required to request Tahoe Branch Assignment Premium pay and will need to demonstrate and certify residency or rental of a dwelling within the specified areas.**
 - b. Employees will be required to notify Human Resources if they no longer reside or rent a dwelling in an area qualifying for Tahoe Branch Assignment Premium Pay.**
 - c. Employees already receiving Tahoe Branch Assignment Premium Pay as of October 9, 2021 will continue to receive the premium for the uninterrupted and continuous duration of the employee's position in the North Lake Tahoe area, but if resuming a position in the North Lake Tahoe area after said date, the residency requirement of this section will apply to the employee upon re-occupying the same or different position in the North Lake Tahoe area.**
 - d. "Primary residence" shall be determined in accordance with the Government Code Section 244.**

D. For employees represented by the Placer Public employees Organization, Tahoe Branch Assignment Premium shall be as set forth in the Memorandum of Understanding between the county and the PPEO. (Ord. 5986-B § 2, 2019; Ord. 5894-B § 6, 2017; Ord. 5885-B § 4, 2017; Ord. 5879-B § 9, 2017; Ord. 5835-B § 3, 2016; Ord. 5749-B § 2, 2014; Ord. 5747-B § 2, 2014; Ord. 5740-B § 20, 2014; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; Ord. 5443-B, 2007; Ord. 5442-B, 2007; Ord. 5309-B, 2004; Ord. 5058-B (Attach. 26), 2000; Ord. 5029-B (Attach. E), 2000; prior code § 14.3092)

EXHIBIT J



**MEMORANDUM
HUMAN RESOURCES**
County of Placer

TO: Honorable Board of Supervisors **DATE:** September 14, 2021
FROM: Kate Sampson, Director of Human Resources
SUBJECT: Deputy Sheriffs' Association Compensation and Benefits Adjustments

ACTION REQUESTED

1. Conduct a public hearing to consider the impasse between the County of Placer and the Deputy Sheriffs' Association.
2. Adopt a resolution imposing the proposals from the County's final position on December 8, 2020 in negotiations with the Deputy Sheriffs' Association.
3. Introduce an ordinance, waive oral reading, amending Chapter 3 to adjust the compensation and benefits of employees represented by the Deputy Sheriffs' Association.
4. Introduce an uncoded ordinance, waive oral reading, adjusting the compensation and benefits of employees represented by the Deputy Sheriffs' Association.
5. Adopt a resolution to implement the adjusted employee retirement contribution to the California Public Employees' Retirement System for miscellaneous members represented by the Deputy Sheriffs' Association.
6. Adopt a resolution to implement the adjusted employee retirement contribution to the California Public Employees' Retirement System for safety members represented by the Deputy Sheriffs' Association.

BACKGROUND

The Placer County Deputy Sheriffs' Association (DSA) is the exclusively recognized organization representing approximately 250 employees including Deputy Sheriffs, District Attorney Investigators, and Sheriff's Sergeants. Pursuant to the Meyers-Milias-Brown Act (MMBA), the County engaged in good faith negotiations with the DSA in 2018 to develop a successor agreement to the most recent memorandum of understanding (MOU) between the parties, which expired June 30, 2018. The parties were unable to reach agreement and the negotiations concluded with an agreement to begin new negotiations in 2019.

Since embarking on a new round of negotiations in May 2019, the parties have held extensive meetings on a variety of proposals. The County's overall goals for the process were:

1. To avoid uncontrolled cost escalation,
2. To better align with the labor market in neighboring counties, and
3. To promote long-term fiscal sustainability.

In furtherance of these goals, the County proposed a three-year agreement with a combined 12.75% base salary increase, representing an investment of \$5.6 million in base salaries alone.

The County also sought to convert percentage-based special pays to flat dollar amounts, in most cases at an increased rate. Additionally, the County proposed adjustments to healthcare and retirement contributions to better align with the benefits offered by most California counties.

Discussion of the Impasse Issues and Proposals

Salaries

The County proposed the following adjustments to salaries over three years:

1. Effective February 2021, wages shall increase 4.0%.
2. Effective February 2022, wages shall increase 4.25%.
3. Effective February 2023, wages shall increase 4.5%.

The proposal represents a departure from wages determined by a formula, often referred to as “Measure F.” On November 2, 1976, the voters of Placer County passed a local initiative sponsored by the DSA. The Measure F initiative provided a required method for annually determining and setting salaries for specified peace officer classifications. As will be discussed, the Measure F initiative of 1976 was superseded by a vote of the people in 1980 when the Placer County Charter was enacted by the voters.

Despite being superseded, Placer County voluntarily implemented annual salary adjustments for the specified classifications according to the method set forth by Measure F since 1980. The Measure F formula requires the County to annually: (1) determine maximum salaries for comparable classes of positions in the three surrounding counties of El Dorado, Nevada and Sacramento; (2) calculate the average maximum salaries for those three agencies; and then, (3) set the salary of the Placer County comparable classifications at a level equal to that average. The Measure F formula is now codified as Placer County §3.12.040.

Over the past 20 years, the average annual salary increase for the DSA has been approximately 3.9%. As a result, salaries for this group have escalated at a rate 56% greater than the Consumer Price Index (CPI) for the same time period. This imbalance is reflected in the County’s per capita operating costs for public protection, which have nearly doubled since 1977. The per capita operating costs for all other services provided by the County have remained relatively stable in the same timeframe, despite a reduction in revenue per capita of about 9%.

Looking forward, the County projects that salaries and benefits for the DSA will increase by at least 33% over the next five years, which is an alarming trend when compared to the 15% growth projected for General Fund revenues during the same time period. If the escalating costs are left unchecked, the County estimates a deficit of over \$18 million in the Public Safety Fund by 2030. The expected impact of such a deficit would be a significant cost reduction in the form of layoffs or cuts to essential public services. For these reasons, the County seeks to negotiate guaranteed *and* sustainable wage increases in order to ensure fiscal sustainability for future generations.

The County's wage proposal demonstrates its commitment to its public safety employees because it exceeds CPI, neighboring jurisdictions' wage increases, and even the historical average increases produced by Measure F. In recognition that the DSA prefers the Measure F formula over negotiating a mandatory subject of bargaining, the County's offer implements wages in excess of what the DSA would otherwise expect. The DSA's refusal of the offer is perhaps indicative of being misinformed regarding Measure F and the will of Placer County voters.

Measure F and the County Charter

On November 4, 1980, the Placer County electorate passed Measure K, establishing a county charter. The provisions of the charter are the law of the State and have the force and effect of legislative enactments. In essence, the Charter is the constitution of the County and supersedes any law inconsistent therewith. [CA. Const. Art. XI, §3(a)]¹

By approving Measure K, the voters provided the Board of Supervisors (Board) with the following authority, in relevant part (*emphasis added*):

Section 301. In General. The Board shall have all the jurisdiction and authority which now or which may hereafter be granted by the Constitution and the laws of the State of California or by this Charter.

Section 302. Duties. The Board shall:

(a) ...

(b) Provide, by ordinance, for the number of assistants, deputies, clerks and other person to be employed from time to time in the several offices and institutions of the County, **and for their compensation.**

Section 604. Continuation of Laws in Effect. All laws of the County in effect at the effective date of this shall continue in effect according to their terms unless contrary to the provisions of this Charter, or until repealed or modified pursuant to the authority of this Charter or the general law.

The Charter vests authority over the compensation of employees and existing local laws in the Board of Supervisors. Since the adoption of the Charter was subsequent to the 1976 election, Measure F and §3.12.040 were legally superseded by the actions of the 1980 electorate. At minimum, a salary formula that leaves no discretion to the Board in setting compensation for its employees is inconsistent with the Board's broad jurisdiction and authority granted by the Charter

¹ CA. Const. Art XI, §3(a) provides, in relevant part: "County charters adopted pursuant to this section **shall supersede** any existing charter and all laws inconsistent therewith. The provisions of a charter are the law of the State and have the full force and effect of legislative enactments."

to establish compensation for county employees. Additionally, the formula violates the California Constitution and the MMBA because it prohibits the parties from bargaining over base wages.

Beyond its legal failures, Measure F is unresponsive to the conditions specific to Placer County. The formula relies on decisions made by elected representatives in Sacramento County, Nevada County, and El Dorado County, which in turn uses a formula dependent on Amador County, the City of South Lake Tahoe, and the State of California's Highway Patrol. The DSA found Measure F unduly restrictive in both 2002 and 2006, when it requested voter approval to repeal the formula construct. To resolve the issue, the parties instead developed compensation workarounds in the forms of special pays that lack transparency to both the public and job candidates. Today, in a tightening labor market for public safety professionals, the DSA's demand for status quo now prevents the Board from responding nimbly to current local conditions to meet the public's expectations for top-tier public safety services.

While the County and the DSA have voluntarily agreed to follow the salary-setting formula in the past, Measure F is increasingly outdated and no longer achieves market equity. Public safety compensation was much simpler in 1976 and did not account for the myriad special pay elements and additional benefits afforded today's DSA members. In fact, Placer County's deputy sheriffs receive a total compensation package that is 18-23% higher than in the surrounding jurisdictions, whose salaries drive the Measure F formula.

These factors led the Board to introduce changes to compensation for public safety managers on December 15, 2020. Chief among the adjustments was an amendment to §3.12.040 to exclude managers from the salary-setting formula. The Placer County Law Enforcement Management Association (LEMA) was subsequently recognized by the Board in April 2021, followed in quick succession by approval of an inaugural agreement between the County and LEMA on August 31, 2021. The MOU codifies salary increases identical to those offered to DSA.

Of note is the Board's continued observance of the Measure F formula for DSA members in February 2021, while the parties participated in impasse procedures. Since the formula called for employees to receive raises less than those offered in negotiations, staff recommends the Board consider imposition of additional wage increases for DSA members to bring the total increase for 2021 to 4%.

Special Pays

The County's proposals convert a variety of percentage-based special pays to flat dollar amounts. Impacted special compensation elements include:

- Bilingual Pay
- Training Officer Pay
- Detective Division Premium Pay
- Peace Officer Standards and Training Certificate Pays
- Night Shift Differential

The amounts proposed were generally derived by calculating an amount equal to the highest paid eligible DSA employees' percentage-based pay. In the case of the most prevalent special pays, the flat amounts were also inflated by an additional ten percent. While the additional value proposed by the County eroded due to automatic wage increases during impasse procedures, all but one of the flat amounts are still equal to or greater than employees' current special pays. The County's position is not intended to be concessionary, but rather to provide the ability to negotiate increases in the future, as opposed to automatically escalating percentages with grave fiscal impacts. Over time, the Board will have the option to consider the County's alignment with the labor market in order to tailor its compensation package to the circumstances of the day.

Future Benefit Costs

The County's position includes adjustments in the areas of pension and healthcare benefits to better align with industry standards.

Escalating pension costs are well recognized as a concern for jurisdictions throughout California. Currently, the County is required to pay more than 46% of a safety employee's salary to the California Public Employees' Retirement System (CalPERS) to fund retirement benefits. In a survey of surrounding county and city employers, Placer County is the only agency that also pays a portion of the employees' share of pension costs. While the law requires safety employees hired after 2012 to pay their fair share of retirement benefits, legacy DSA members have 4% of their 9% share covered by the County. The County's proposal seeks to increase employees' responsibility for their share of these costs by 1.25% for safety members and 2% for miscellaneous members, which results in a continued benefit in excess of surrounding counties' offerings, including all of those represented in the Measure F formula.

Another significant benefit expense is the County's contributions to healthcare premiums. While the County currently pays 80% of nine different health plan options, its proposal is to limit this 80% contribution to the most popular plans with the DSA membership. The County proposes to pay 80% of any plan with a premium less than or equal to the Anthem Blue Cross PORAC PPO, which is widely utilized by employees in the Tahoe region. The majority of DSA members would experience no change in costs unless electing more expensive plans. The proposed terms update this proposal to be effective January 2022, allowing DSA employees to consider any revised contribution amounts during the upcoming open enrollment period. This adjustment still exceeds the healthcare offerings by other local counties, including all of those included in the Measure F formula.

Clarifying Language

The County proposes clarifying language to several provisions, including Tahoe Branch Assignment Pay, Longevity Pay, Dental Insurance, and Vision Care. The purpose of the Tahoe Pay proposal is to compensate employees with a monthly incentive of \$875 to offset housing costs in the Lake Tahoe area. The County's proposal stretches to the more affordable Reno and

Sparks area, while the DSA proposes a 60-mile radius that nearly reaches Rocklin and Folsom. The remaining three clarifying proposals do not represent any change to current practice.

Although not at issue, the parties were unable to incorporate their tentative agreements on the following items into a successor MOU:

- Pre-Retirement Option
- Meal Reimbursement
- 401(k) Contribution in Lieu of Health Insurance
- Organizational Leave – Release Time
- Fitness for Duty Evaluation During Employment
- Out-of-Class Pay
- Retiree Dental Insurance
- Fourteen Day Work Period
- Court Overtime
- Stand-By Pay
- Canine Pay
- Special Teams Pay

Impasse Procedures, Meet and Confer on Impacts, and Next Steps

The parties were not successful in agreeing to a new MOU and have now exhausted impasse procedures, including non-binding mediation and advisory factfinding. In addition, the parties have met and conferred on the separate issue of removing the superseded Measure F language from the County Code. Upon reaching impasse and by agreement of the parties, the matter was submitted to the same factfinding panel that was convened for the impasse procedures arising from negotiations over a new MOU.

The factfinding process, which took several months, was highly irregular. Although appointed as a neutral party, the panel chairperson revised her recommendations to be increasingly averse to the County at least twice after the County declined to support her opinions and (at her request) provided a written dissent. Although the State's factfinding process is intended to mediate a compromise between two parties, the final report from the panel failed to facilitate agreement and contains incorrect and inappropriate legal opinions beyond the scope and authority of the chairperson. The County filed a dissent to the factfinder's recommendations and legal analysis. Thus, the parties have concluded both the MOU negotiations and the meet and confer process as related to the repeal or amendment of Measure F.

Accordingly, staff recommends the Board of Supervisors adopt a resolution imposing terms consistent with the County's last negotiating position. The additional proposed ordinances and resolutions serve to implement those terms, including amendment of the Placer County Code.

FISCAL IMPACT

During negotiations, the annual cost of the recommended terms for one year was estimated to be \$1.7 million. Since DSA members received wage increases in February 2021, along with automatic increases to percentage-based special pays, the additional cost to implement the terms is partially defrayed. The current annual value of the recommended terms to the DSA is approximately \$475,000.

The costs resulting from the proposed actions will be absorbed within the impacted departments' adopted Fiscal Year 2021-22 budgets.

ATTACHMENTS

Attachment 1 – Resolution Imposing Terms

Attachment 2 – Ordinance Amending Chapter 3 of the Placer County Code to Adjust DSA Compensation and Benefits

Attachment 3 – Uncodified Ordinance Adjusting DSA Compensation and Benefits

Attachment 4 – Resolution Implementing Adjusted Employee Pension Contributions for Miscellaneous Members

Attachment 5 – Resolution Implementing Adjusted Employee Pension Contributions for Safety Members

Before the Board of Supervisors County of Placer, State of California

In the matter of:

Imposed Terms to the Placer County Deputy Sheriffs' Association. Resolution No.: _____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held September 14, 2021, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, the Placer County Deputy Sheriff's Association (DSA) represents approximately 248 employees including Deputy Sheriffs, Sheriff's Sergeants, District Attorney Investigators, and Welfare Fraud Investigators; and

WHEREAS, the DSA has been without a labor agreement since July 1, 2018; and

WHEREAS, negotiations for a new contract were in progress since March 2018 and concluded with an agreement to begin new negotiations in 2019; and

WHEREAS, after commencing a new round of negotiations in 2019 involving extensive meetings and a variety of proposals to further the County of Placer's goals to avoid

uncontrolled cost escalation, align with the labor market in neighboring counties, and promote long-term fiscal sustainability, the parties were unable to reach agreement; and

WHEREAS, the parties exhausted impasse procedures including voluntary mediation with the Public Employment Relations Board's Mediation and Conciliation Service and submission of the issues to an advisory factfinding panel consistent with the Meyers-Milias-Brown Act without satisfactory furtherance of the County's goals; and

WHEREAS, County negotiators recommend imposing terms consistent with the County's last negotiating position, proposed to the DSA on December 8, 2020.

BE IT RESOLVED, that the Board of Supervisors, County of Placer, State of California, does hereby impose on the Placer County Deputy Sheriffs' Association the provisions contained within the Imposed Terms to the Deputy Sheriffs' Association attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the County Executive Officer shall have the authority to determine and is directed to take all necessary actions to implement the provisions with the Imposed Terms to the Deputy Sheriffs' Association.

Exhibit A: Imposed Terms to the Placer County Deputy Sheriffs' Association

EXHIBIT A

**IMPOSED TERMS BY THE COUNTY OF PLACER
TO THE PLACER COUNTY DEPUTY SHERIFF’S ASSOCIATION (PCDSA)**

All items become effective the first full pay period after adoption by the Board of Supervisors unless otherwise indicated herein.

1. SALARY INCREASES

Deputy Sheriff Trainee	1.09%
Deputy Sheriff I	1.09%
Assistant Deputy Sheriff I	1.09%
Deputy Sheriff II	1.09%
Sheriff’s Sergeant	1.41%
Investigator – District Attorney	1.41%
Investigator – Welfare Fraud/Child Support	1.41%
Investigator – Welfare Fraud – Supervising	1.41%

2. PERS PRE-RETIREMENT OPTION SETTLEMENT 2 DEATH BENEFIT

The CalPERS Pre-Retirement Optional Settlement 2 Death Benefit for the local safety retirement formula beneficiaries has been implemented, which increases the death benefit for the surviving spouses of employees who die prior to retirement.

3. MEAL REIMBURSEMENT

The Department Head or designee must authorize all meal allowance expenditures in advance.

- a. Meal Allowance for Meals Directly Related to County Business. Attending a breakfast, luncheon, dinner, or other meal meeting or gathering where the main purpose is to conduct business directly affecting the County, County business is actually conducted during the meal period, and there is some specific County business benefit contemplated by County employees at some future time.

There must be a specifically identifiable reason for conducting the County’s business during the meal. Examples of allowable business meals include when it is impractical to meet during normal working hours, or a meeting does not adjourn during lunch, or an employee is required to go to lunch as a member of a group, such as a Board or Commission where official business is conducted, or when the meal otherwise takes place in a clear business setting.

- b. Meal Allowance for Overnight Travel. Employees will receive a per diem rate for meals when traveling on County business on a temporary basis (one year or less), that results in the employee being away from the location of the employee's principal place of business overnight.
- c. Meal Allowance due to Emergency Situations. Department heads or their designee, with the prior verbal approval of the County Executive, may authorize meal allowance expenditures for employees during emergencies or extraordinary or unusual circumstances such as natural disasters; severe inclement weather; imminent or actual failure of county facilities, systems, or processes; a health or safety emergency or threat; or extended search and rescue activities. Such verbal approval is effective for not more than 72 hours but may be extended by written approval of the County Executive for an indefinite period of time.
- d. Employer Provided Meals. With the prior approval of the County Executive, the Department Head may provide, on County facilities, meals to County employees for a substantial non-compensatory reason in one of the following circumstances:
 - i. Employees on shift that are required by their direct supervisor to stay on the work site in case they are needed for emergencies or other business needs during the meal period (example: A Sheriff's Deputy or Sergeant working in the jail);
 - ii. The nature of the assignment (not merely a preference) requires a short meal period.
- e. The Department Head or designee must authorize all meal allowance expenditures in advance. Meals and incidentals are reimbursed according to the Federal per diem GSA (General Services Administration) guidelines <http://www.gsa.gov> for the travel destination if the travel is overnight and approved by the Department Head. A receipt is not necessary to receive the per diem meal allowance amount. Information sufficient for the Auditor to determine that the allowance is being paid under one of the above provisions will be required prior to the allowance being paid.
- f. Incidental Expenses. An employee traveling overnight may receive the combined meal and incidental expense Federal Domestic Per Diem Rate to cover incidentals. The incident amount is intended to pay for fees and tips given to porters, baggage carriers, hotel staff, etc.

4. 401(K) CONTRIBUTION IN LIEU OF HEALTH INSURANCE

All PCDSA represented employees who elect to opt out of the CalPERS Health plan, because the employee has other creditable coverage available, and elect to participate in the In Lieu of Health (ILH) option, will receive a County contribution of a flat dollar amount of \$140 per pay period to their 401(k) account upon providing proof of other creditable group health insurance coverage and completing the Group Health Plan Coverage ACT Opt Out form. Individual or Government Exchange programs are not "creditable" coverage.

5. ORGANIZATIONAL LEAVE – RELEASE TIME

The parties agree that the policy of the Sheriff's Office and District Attorney's Office is to allow the Association's board members paid release time to carry out Association business. Up to four hundred (400) hours per calendar year of paid release time is granted collectively to the Association's board members. This release time is subject to approval of the appropriate Department Head or their designee.

A record of release time granted will be documented on the Board member's timesheet and maintained by the payroll unit for the appropriate department.

Association representatives engaged in collective bargaining shall be allowed additional reasonable release time to participate in negotiations at the bargaining table. For this purpose only, the Department Head may grant release time in excess of four hundred (400) hours in a calendar year.

6. FITNESS FOR DUTY EVALUATION DURING EMPLOYMENT

a. Fitness for Duty Evaluation

- 1) When, in the judgment of the appointment authority, an employee's health, or physical or mental condition is such that it is desirable to evaluate the employee's capacity to perform the duties of the position, the appointing authority shall require the employee to undergo a fitness for duty medical or psychological evaluation. Such evaluation shall be by a physician or psychologist selected by the county.
- 2) The examining physician or psychologist shall state whether, in their opinion, the employee is able to properly perform the essential job duties/functions of the position. Such determination shall be based upon the essential job duties/functions and the diagnosis or injury/illness, and whether the employee's condition can be remedied within a reasonable period of time.
- 3) If the examining physician or psychologist finds the employee unfit to perform the essential job duties/functions of the position, the employee may, within fourteen (14) calendar days after notification of the determination, submit a written request to the county disability management administrator to provide additional information to the examining physician or psychologist for review. The additional information provided must be relevant to the nature and extent of the medical condition(s) which relates to the employee's inability to perform essential job duties/functions. All costs associated with obtaining/providing additional medical information relating to this appeal are the financial responsibility of the employee.
- 4) Further medical information provided by the employee will then be submitted directly to the examining physician or psychologist who completed the initial review. The physician or psychologist will review the additional information and determine whether or not the employee can properly perform the essential job duties/functions of the position. The employee shall not be entitled to a second evaluation by another physician or psychologist.

b. Disability Review Process: Action by the Appointing Authority

- 1) If it is determined that the employee cannot perform the essential job duties/functions of the classification in which they are employed, with or without reasonable accommodation, due to a medical or psychological condition that meets the disability criteria under federal and state statutes, the County may take the following actions, as appropriate.
- 2) Engage in an interactive process with the employee and as a reasonable accommodation may consider reassignment to an alternate classification based on the following criteria:

- i. Employee's ability to meet the minimum qualifications of the alternative classification;
- ii. Employee's ability to perform the essential job duties/functions of the alternative classification;
- iii. Rules governing lateral transfer and voluntary demotion; and,
- iv. Availability of the position at the time of acceptance, as determined by the County Executive Office.

c. Appeal Process:

The employee may appeal an offer of, or refusal to offer, reasonable accommodation by submitting a written request to the county disability management administrator within fourteen (14) calendar days of the offer. The request shall be in writing and set forth the offered accommodation, if any; the reason the offered accommodation or denial of accommodation is unreasonable; and any accommodation the employee feels would be reasonable.

- 1) The county disability management administrator will review the appeal, obtain any additional information from the appointing authority, and submit the request to the County Executive Officer for consideration. After consultation with County Counsel, the county disability management administrator and the appointing authority, the County Executive Officer shall make one of the following findings:
 - i. Further consideration of alternatives needed;
 - ii. The appeal is upheld; or,
 - iii. The appeal is not justified and denied.
- 2) The decision of the County Executive Officer shall be final.

If the interactive process described above does not result in resolution, the County will submit an application for disability retirement on the employee's behalf in accordance with the Public Employees Retirement Law if the employee is eligible.

Separation of the employee from County service for medical cause may occur if 1) the employee is not eligible for, or denied, disability retirement under the Public Employees Retirement Law; or 2) the employee declines an offer of reasonable accommodation; or 3) the employee fails to engage in the interactive process or reasonable accommodation cannot otherwise be satisfactorily achieved by the employee and the County. In taking such action to separate the employee for medical cause, the appointing authority shall follow the process set out in Article 3.08, Part 12, Disciplinary Action, as applicable, although the separation shall not be considered disciplinary action.

7. TAHOE BRANCH ASSIGNMENT PREMIUM PAY

Classified employees meeting the following criteria shall receive the following monthly additional compensation:

- a. Tahoe Branch Assignment Premium shall be eight hundred seventy-five dollars (\$875) per month.
- b. Effective upon adoption, employees hired into or transferring into a position located in the North Lake Tahoe area and who have a primary residence or rent a dwelling within 50 driving miles of the Placer County Sheriff's Office Burton Creek substation will qualify for the Tahoe Branch Assignment Premium.
 - 1) Employees will be required to request Tahoe Branch Assignment Premium pay and will need to demonstrate and certify residency or rental of a dwelling within the specified areas.
 - 2) Employees will be required to notify Human Resources if they no longer reside or rent a dwelling in an area qualifying for Tahoe Branch Assignment Premium Pay.
 - 3) Employees already receiving Tahoe Branch Assignment Premium Pay at the time this is adopted by the Board of Supervisors will continue to receive the premium for the uninterrupted and continuous duration of the employee's position in the North Lake Tahoe area, but resumes a position in the North Lake Tahoe area after the adoption, the residency requirement of this section will apply to the employee upon re-occupying the same or different position in the North Lake Tahoe area.
 - 4) "Primary residence" shall be determined in accordance with the Government Code Section 244.

8. OUT-OF-CLASS PAY

- a. In line with the principle that an employee assigned to work in a position having discernibly higher job duties should receive higher pay, positions within the classified service may be applicable for work-out-of-class assignment as set forth in subparagraph (b).
- b. Individual employees may be certified by the Human Resources Department as being eligible for work-out-of-class pay when so assigned by the Appointing Authority or designate of that Appointing Authority.
- c. Procedure:
 - 1) Positions will be eligible for out-of-class pay when work conditions warrant. Other positions shall be considered as current developments cause out-of-class assignments.
 - 2) The Human Resources Department shall verify that employees in certain positions are eligible to receive out-of-class pay.
 - 3) An out-of-class assignment shall be made:
 - i. When the position is vacant due to absence of the incumbent when ill, on vacation, or other valid reason.
 - ii. When workloads necessitate the assignment of employees to supplement a specific position or perform new assignments.
 - 4) An out-of-class assignment for training purposes may be excluded from out-of-class compensation provided such training purposes can be adequately demonstrated.
 - 5) Administration of the out-of-class procedure shall be as follows:
 - i. No out-of-class compensation will be considered or paid for assignments of two (2) workdays or less.

- ii. Additional compensation for working out of class shall be no less than a minimum of five (5) percent or exceed a maximum of fifteen (15) percent.
- iii. Out of class pay may be approved by the Appointing Authority for up to 14 days; from 15 days up to and including 180 days requires approval of the Human Resources Director. Any extension beyond 180 days shall require the concurrence of the Civil Service Commission.

The Human Resources Department shall hear any contention that an employee is actually working out of class. In the event of an adverse decision by the Human Resources Department, the employee concerned and/or the employee's representative shall have the right to appeal such decision to the Civil Service Commission.

9. BILINGUAL PAY

Upon request of the Department Head, and approval by the Human Resources Director, designed employees shall be paid an additional \$464 per month for the use of a second language in the normal course and scope of work. Sign language shall constitute a second language within the meaning of bilingual pay provided that the requisite certification procedures as defined by the Human Resources Director have been completed.

10. TRAINING OFFICER PAY

The County shall pay a differential of \$389 per month to each employee in the classification of Deputy Sheriff II who is assigned by the Sheriff to work as a Field Training Officer (FTO) or as a Jail Training Officer (JTO) provided that not more than twelve (12) employees shall receive said pay at any one time.

It shall be understood that the above-described salary differential shall be paid to an employee only during the time the employee is assigned formal field training or jail training responsibilities. Payment of said differential to an employee shall cease at such time as the Sheriff shall terminate the field/jail training responsibilities or reassign same to another employee.

11. LONGEVITY PAY

Permanent employees meeting the following criteria shall be eligible to receive two five percent (5%) increases in their then current hourly rate from the salary schedule, which shall be referred to as "longevity pay." As to either step alternative, a break in service will result in a new calculation for a new five (5) or ten (10) year period, and no service prior to the break will be counted as part of the new five (5) or ten (10) year period. Extra help time and time off without pay will not be included as part of this calculation. Time off without pay for disciplinary reasons or unpaid leave of absence will not constitute a break in service. Time off for these reasons will not count toward the completion of the required service time.

- a. Longevity Pay 1 (5%): An employee is either eligible for five percent (5%) longevity pay upon meeting the requirements in EITHER item 1) OR 2) but cannot earn both:
 - 1) Each permanent employee who has been at step 5 of their salary grade in the same classification for 10,400 paid hours (five years full-time paid service) with Placer County shall receive a one-time five percent (5%) increase in their then current base hourly rate. This special compensation shall not be reportable to CalPERS.

- 2) Each permanent employee who has at least 20,800 paid hours (ten years full-time paid service) with Placer County shall receive a five percent (5%) increase in their then current base hourly rate.
- b. Longevity Pay 2 (additional 5% for a total of 10%): Each permanent employee who has at least 41,600 paid hours (twenty years of full-time paid service) with Placer County shall receive an additional five percent (5%) increase of their then current base hourly rate.
- c. Employees who separate from County service but who reinstate at a future date will follow the reinstatement provisions for eligibility for longevity pay; within two (2) years maintains prior eligibility; two (2) years or more is treated as a new employee.
- d. Any form of overtime hours, extra-help hours and time off without pay regardless of the reason will not be included for purposes of eligibility for longevity.

12. DETECTIVE DIVISION PREMIUM PAY

Effective upon adoption, an employee designed by the Sheriff to work in the Investigations Division, or by the District Attorney to work in an investigations' division in an undercover capacity, shall receive an additional \$510 per month.

13. CAREER AND EDUCATION INCENTIVE

It is the objective of Placer County to assure high quality law enforcement services by encouraging career law enforcement officers to continue to broaden their career development and educational background.

Full-time permanent employees in the following classes shall be eligible for the career and education incentive:

- Deputy Sheriff I
- Deputy Sheriff II
- Sheriff's Sergeant
- Investigator – District Attorney
- Investigator-Welfare Fraud
- Investigator – Welfare Fraud Supervising

- a. Effective the beginning of the pay period following adoption, incentive pay for possession of a POST Intermediate certificate shall be as follows:

i. Deputy Sheriff I	\$735 per month
ii. Deputy Sheriff II	\$1,030 per month
iii. Sheriff's Sergeant	\$1,225 per month
iv. Investigator – District Attorney	\$1,285 per month
v. Investigator – Welfare Fraud	\$1,285 per month
vi. Investigator – Welfare Fraud – Supervising	\$1,385 per month
- b. Effective the beginning of the pay period following adoption, incentive pay for possession of a POST Advanced certificate shall be as follows:

i. Deputy Sheriff I	\$1,040 per month
ii. Deputy Sheriff II	\$1,460 per month
iii. Sheriff's Sergeant	\$1,735 per month
iv. Investigator – District Attorney	\$1,825 per month
v. Investigator – Welfare Fraud	\$1,825 per month
vi. Investigator – Welfare Fraud – Supervising	\$1,960 per month

The above incentive amounts are not cumulative or compounded and employees will receive only one rate of incentive pay for POST certification.

Full-time permanent employees in the above listed classifications will be eligible for educational incentive pay of:

- \$100 per pay period for an Associate's degree (AA) or
- \$125 per pay period for a Bachelor's degree (BA) or
- \$175 per pay period for a Master's degree (MA)

To be eligible for educational incentive pay, the degree must be from an accredited college, consistent with the Human Resources Department practices for determining the validity of the college and degree. Employees must present evidence of successful completion of a qualifying degree, consistent with this section to their department head, who shall determine and certify whether employees are eligible to receive educational incentive pay.

Employees may not receive educational incentive pay for more than one degree (Associate's, Bachelor's, or Master's). Incentive amounts are not cumulative, and employees will only receive educational incentive pay for one degree.

14. NIGHT SHIFT DIFFERENTIAL

- a. Employees other than those regularly assigned to work at the jail shall receive a shift differential of \$4.41 per hour for any hours worked during 4:30 p.m. and 6:30 a.m., provided they work a minimum of one hour during that time period.
- b. Employees regularly assigned to work at the jail shall receive a shift differential of \$4.41 per hour for any hours worked between 4:30 p.m. and 6:30 a.m., provided they work a minimum of three hours during that time frame.
- c. Employees regularly assigned to work 50% or more of their hours between the hours of 4:30 p.m. and 6:30 a.m. shall continue to receive the \$4.41 per hours shift differential even when they work additional shifts that would otherwise not qualify for shift differential payments.
- d. For purposes of this section, "Regularly assigned to work" means the hourly work schedule assigned on a quarterly basis to each employee.

15. EMPLOYEE'S CALPERS CONTRIBUTION

Tier 1: Employees Hired Prior to January 1, 2011

- a. **CalPERS Miscellaneous Employees.** Effective the first pay period after adoption by the Board of Supervisors, employees hired prior to January 1, 2011, represented by the PCDSA and included in the CalPERS miscellaneous retirement plan will pay 4% of their CalPERS employee contribution. The County will pay 4% of the employee's contribution.

- b. **CalPERS Safety Employees.** Effective the first pay period after adoption by the Board of Supervisors, employees hired prior to January 1, 2011, represented by the PCDSA and included in the CalPERS safety retirement plan will pay 6.25% of their CalPERS employee contribution. The County will pay 2.75% of the employee's contribution.

Tier 2: Employees Hired between January 1, 2011, and December 31, 2012

- a. CalPERS Miscellaneous Employees. Employees hired on or after January 1, 2011, will pay 7% of their CalPERS employee contribution.
- b. CalPERS Safety Employees. Employees hired on or after January 1, 2011, will pay 9% of their CalPERS employee contribution.

Tier 3: PEPRA – Employees Hired on or after January 1, 2013

- a. CalPERS Miscellaneous and Safety PEPRA Employees. New employees hired on or after January 1, 2013, will pay at least 50% of the total normal cost rate of their defined benefit plan or the current contribution rate of similarly situated employees, whichever is greater.
- b. CalPERS "Classic" PEPRA Employees
 - 1) Miscellaneous "Classic" Employees. Employees hired on or after January 1, 2013, will pay 7.0% of their CalPERS employee contribution.
 - 2) Safety "Classic" Employees. Employees hired on or after January 1, 2013, will pay 9.0% of their CalPERS employee contribution.

16. HEALTH CARE

- a. Effective January 1, 2022, the County shall pay up to 80% of the total premium for the PORAC health plan offered by the County.
- b. Employees who select a health plan with higher monthly premiums than the maximum monthly premium paid by the county (Section a. above) shall pay the difference through payroll deduction. Should employees select a health plan with lower monthly premiums than the maximum monthly premium paid by the County, the County's contribution shall be limited to the cost of the selected plan premium.

17. DENTAL INSURANCE

- a. PCDSA represented employees will pay for the full cost for dependents and any future rate increases associated with dependent coverage in the dental plan. The County will continue to pay for the employee only cost.
- b. Eligibility, benefits, and covered services are described in the County's dental plan document and evidence of coverage.
- c. The County will notice and, if requested by PCDSA, meet and confer over any plan changes.

18. VISION CARE

- a. PCDSA represented employees will pay for the full cost for dependents and any future rate increases associated with dependent coverage in the vision plan. The County will continue to pay for the employee only cost.
- b. Eligibility, benefits, and covered services are described in the County's vision plan document and evidence of coverage.
- c. The County will notice and, if requested by PCDSA, meet and confer over any plan changes.

19. RETIREE DENTAL INSURANCE

- a. The County will contribute the employee-only premium rate for dental insurance coverage for retirees from classifications represented by PCDSA, provided that their retirement date is on or after July 1, 2000.
- b. Employees who retired prior to July 1, 2000, are not eligible for this benefit.
- c. Employees hired on or after November 23, 2010, are not eligible for this benefit.

20. FOURTEEN DAY WORK PERIOD

Employees subject to the provision of 207(k) of the Fair Labor Standards Act (FLSA) shall work a regularly recurring fourteen-day work period, consistent with the County's pay period schedule. Time worked in excess of an employee's regularly scheduled shift or in excess of 80 hours during the work period shall be compensated at time and one-half or compensatory time earned at time and one-half, pursuant to Section 7.2 of this MOU. Within such work period are work schedules and shift assignments, as determined by the Sheriff's Office and District Attorney's Office.

21. COURT OVERTIME

- a. When an employee is required to appear in court in connection with work, on the employee's day off, said employee shall be entitled to overtime. The minimum overtime to which said employee is entitled shall be four (4) hours at time and one half.
- b. When an employee is scheduled for a court appearance on the employee's day off and the court appearance is canceled after 6:00 p.m. the day prior to the scheduled appearance, the employee shall receive two (2) hours pay at the employee's overtime rate.

22. STAND-BY PAY

- a. Stand-by duty requires the employee so assigned:
 - 1) to be ready to respond to calls for service; and
 - 2) to be reachable to respond to calls for service; and
 - 3) to refrain from activities which might impair the employee's ability to perform assigned duties.
- b. Stand-by duty may only be assigned by a Department Head, or designated representative.
- c. Stand-by pay shall not be deemed overtime compensation for purposes of the Placer County Code, Section 3.04.230.

- d. Stand-by duty shall be compensated at a flat rate of twenty-seven dollars (\$27) for weekdays and thirty dollars (\$30) for weekends and holidays, for eight hours (one normal shift) of stand-by duty, or any portion thereof, and shall be paid in the pay period it is earned. Weekdays are defined as Monday 12:01 a.m. through Friday midnight. Holidays are defined as the County declared holiday from 12:01 a.m. to midnight.

23. CANINE PAY

Those employees assigned by the Sheriff to the duty of supervision, care and feeding of a canine, as “Canine Handlers,” shall receive canine pay of five (5) hours per 14-day work period, paid at the overtime rate of time and one-half the employee’s base hourly rate of pay.

- a. All veterinary care and maintenance of the canine is to be provided at County expense. It is agreed that care and maintenance include veterinary care necessary to prevent and treat injuries and diseases and includes annual physical exams and inoculations. Canines shall receive veterinary care from a County designated veterinarian or one of the Canine Handler’s choosing. Veterinary expenses incurred through County designated veterinarians will be paid by the County through direct billing by the veterinarian. Expenses incurred through a veterinarian of the Canine Handler’s choice will be paid by reimbursement to the Canine Handler for receipted claims, provided that in no event shall reimbursement exceed the amount normally paid to a County designated veterinarian for the same or similar service. Food for the canine will be provided at the expense of the County through an established Blanket Purpose Order and Policy developed by the Sheriff’s Office.
- b. The County will provide for the replacement of the canine should it be disabled or killed as a result of a line of duty injury or accident at no expense to the Canine Handler.
- c. This care and maintenance pay is granted in recognition of the personal duties and responsibilities of a Canine Handler, in light of the on-duty time already being provided and include the time spent by the Canine Handler employee while off duty in the care and maintenance of the assigned canine, as well as reimbursement of canine related expenses. It represents good faith compensation associated with the daily care and maintenance of a canine outside the normal hours of work of the assigned Canine Handler employee during the month. The intent of this pay is to ensure compliance with all applicable state and federal labor laws, including but not limited to, the Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., and 29 C.F.R. Section 785.23.

24. SPECIAL TEAMS PAY

Effective the first full pay period following adoption, the special pay will be paid as follows for those employees assigned by the Sheriff to the following special teams, without regard to call out:

- a. Special Enforcement Team pay of \$150 per month.
- b. Certified Divers Pay of \$150 per month.
- c. Hostage Negotiations Team pay of \$150 per month.
- d. Explosive Ordinance Detail pay of \$150 per month.
- e. Air Support Team pay of \$150 per month.

Before the Board of Supervisors County of Placer, State of California

In the matter of: An ordinance amending sections of Chapter 3 to implement the terms imposed on the Placer County Deputy Sheriffs' Association.

Ordinance No.: _____

Introduced: September 14, 2021

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA,
DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. That the following sections Chapter 3 of the Placer County Code are amended as set forth in Exhibit A, attached hereto and incorporated herein by reference:

- 3.04.190
- 3.04.280
- 3.04.290
- 3.08.1020
- 3.12.020
- 3.12.040
- 3.12.060
- 3.12.080

Section 2. This ordinance shall be effective the first pay period following adoption.

Section 3. That this ordinance is adopted as a codified ordinance.

EXHIBIT A**3.04.190 Work required of employees.**

A. General, Professional and Deputy Sheriffs Units. Except as may otherwise be provided, an employee who occupies a full-time, permanent position shall work forty (40) hours in each workweek.

B. General Unit Employees Subject to FLSA 7J Exemption. Employees subject to the FLSA 7J exemption shall be on an eight-hour day, eighty (80) hour work period for purposes of overtime.

C. General Unit Employees Subject to FLSA 7K Exemption. Employees subject to the FLSA 7K exemption shall work on a twenty-eight (28) day work period for purposes of overtime.

D. **PPEO.** Employees subject to the provisions of 207(k) of the Fair Labor Standards Act (FLSA) shall work a regularly recurring fourteen (14) day work period, consistent with the county's pay period schedule. Time worked in excess of eighty (80) hours during the work period shall be compensated at time and one-half or compensatory time earned at time and one-half, pursuant to the PPEO MOU. Within such work period are work schedules and shift assignments, as determined by the sheriff's office and district attorney's office.

E. Deputy Sheriffs' Association. Employees subject to the provisions of 207(k) of the Fair Labor Standards Act (FLSA) shall work a regularly recurring fourteen (14)-day work period, consistent with the county's pay period schedule. Time worked in excess of an employee's regularly scheduled shift or in excess of eighty (80) hours during the work period shall be compensated at time and one-half or compensatory time earned at time and one-half. Within such work period are work schedules and shift assignments, as determined by the sheriff's office and district attorney's office.

~~E~~F. Deputy Sheriffs Unit Employees Subject to FLSA 7K Exemption. Employees subject to the FLSA 7K exemption shall work on a twenty-eight (28) day work period for purposes of overtime when working voluntary shifts. Mandatory overtime in excess of the forty (40) hour workweek shall be compensated at time and one-half.

Sworn personnel assigned to the corrections division may be assigned rotating workweeks of thirty-six (36) hours and forty-four (44) hours. This would be accomplished by working three twelve (12) hour days with four days off, followed by three twelve (12) hour days and one eight-hour day with three days off, which would result in one hundred sixty (160) hours of scheduled work in a twenty-eight (28) day cycle.

Officers assigned to this shift shall not be entitled to overtime for the hours worked in excess of forty (40) per week which are used to complete the work cycle.

For purposes of implementing the "3-12" shift, personnel shall only be assigned to the permanent twelve (12) hour shift at the start of a pay period and transferred off the "3-12" at the close of a pay period.

~~F~~G. Each employee shall be entitled to take one fifteen (15) minute rest period for each four hours of work performed by such employee in a work day (i.e., two fifteen (15) minute breaks for work days that consist of eight, nine or ten (10) hour shifts, and three fifteen (15) minute breaks for employees on twelve (12) hour shifts). If not taken, such rest period is waived by such employee.

~~G~~H. PPEO Represented and Confidential Employees—Extended Work Assignments. Except for a declared emergency, an employee who has worked sixteen (16) consecutive hours must be allowed a minimum of eight hours off before being required to return to work. An employee shall suffer no loss of pay nor shall there be a deduction from the employee's leave balances if this eight (8)-hour period overlaps with the employee's normal shift. (Ord. 5991-B § 1, 2019; Ord. 5683-B § 3, 2012; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; prior code § 14.201)

3.04.280 Overtime—Call-back duty.

A. PPEO Represented and Confidential Employees.

1. When an employee is called back to work after they have completed an assigned shift, the employee shall receive a minimum of two hours of call-back pay at one and one-half times the employee's hourly rate. Time worked for which the employee is entitled compensation shall include reasonable travel to the worksite.

2. Call-back pay shall not apply to situations where the employee has been retained on duty by the employee's supervisor beyond the end of the employee's shift.

3. Call-back pay at the minimum rate of one hour at one and one-half times the employee's hourly rate shall apply to those situations where an employee performs authorized work on behalf of the county without being required to physically return to work.

4. Multiple calls to the employee within a sixty (60) minute period beginning with the first call, in the same hour, shall be paid as a single call-back pay period.

B. Deputy Sheriffs Unit Court Appearances.

1. When an employee is required to appear in court in connection with their job duties on their regular day off, such employee shall be entitled to overtime. The minimum overtime to which such employee is entitled shall be ~~three~~ **four** hours at time and one-half.

2. When an employee is scheduled for a court appearance on their day off and the court appearance is cancelled after six p.m. the day prior to the scheduled appearance, they shall receive two hours' pay at their overtime rate. (Ord. 6068-B § 1, 2021; Ord. 5740-B § 3, 2014; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; Ord. 5443-B, 2007; Ord. 5442-B, 2007; prior code § 14.218)

3.04.290 Overtime—Stand-by duty.

A. Stand-by duty requires the employee so assigned:

1. To be ready to respond to calls for service; and
2. To be reachable by telephone or radio; and
3. To refrain from activities which might impair his or her ability to perform his or her assigned duties.

B. Stand-by duty may only be assigned by a department head, or designated representative.

C. For employees represented by the Placer County Deputy Sheriff's Association, stand-by duty shall be compensated ~~as set forth in the Memorandum of Understanding between the county and the PCDSA~~ **at a flat rate of twenty-seven dollars (\$27.00) for weekdays and thirty dollars (\$30.00) for weekends and holidays, for eight hours (one normal shift) of stand-by duty, or any portion thereof, and shall be paid in the pay period it is earned. Weekdays are defined as Monday 12:01 a.m. through Friday midnight. Holidays are defined as the County declared holiday from 12:01 a.m. to midnight.**

D. For employees represented by Placer Public Employees Organization (PPEO), stand-by duty shall be compensated as set forth in the Memorandum of Understanding between the county and PPEO.

E. Stand-by duty and stand-by compensation shall not be deemed overtime compensation for purposes of Section 3.04.230. (Ord. 5879-B § 1, 2017; Ord. 5835-B § 2, 2016; Ord. 5749-B § 1, 2014; Ord. 5747-B § 1, 2014; Ord. 5740-B § 4, 2014; Ord. 5700-B § 7, 2013; Ord. 5683-B § 6, 2012; Ord. 5478-B (Attach. A), 2007; Ord. 5309-B, 2004; prior code § 14.220)

3.08.1020 Fitness for duty evaluation during employment.

A. When, in the judgment of the appointing authority, an employee's health, or physical or mental condition is such that it is desirable to evaluate ~~his or her~~ **the employee's** capacity to perform the duties of ~~his or her~~ **their** position, the appointing authority shall require the employee to undergo a fitness for duty medical or psychological evaluation. Such evaluation shall be by a physician **or psychologist** selected by the county.

B. The examining physician **or psychologist** shall state whether, in ~~his or her~~ **their** opinion, the employee is able to properly perform the essential job duties/functions of the position. Such determination shall be based upon the essential job duties/functions and the diagnosis or injury/illness, and whether the employee's condition can be remedied within a reasonable period of time.

C. If the examining physician **or psychologist** finds the employee unfit to perform the essential job duties/functions of ~~his or her~~ **the** position, the employee may, within fourteen (14) calendar days after notification of the determination, submit a written request to the county disability management administrator to provide additional information to the examining physician **or psychologist** for review. The additional information provided must be relevant to the nature and extent of the medical condition(s) which relates to the employee's inability to perform essential job duties/functions. All costs associated with obtaining/providing additional medical information relating to this appeal are the financial responsibility of the employee.

D. Further medical information provided by the employee will then be submitted directly to the examining physician **or psychologist** who completed the initial review. The physician **or psychologist** will review the additional information and determine whether or not the employee can properly perform the essential job duties/functions of ~~his or her~~ **the** position. The employee shall not be entitled to a second evaluation by another physician **or psychologist**. (Ord. 5700-B § 31, 2013; Ord. 5683-B § 38, 2012; Ord. 5478-B (Attach. A), 2007; prior code § 14.1971)

3.12.020 Classified service—Salary and benefits notations.

1. For employees represented by the Placer County Deputy Sheriff's Association (PCDSA) floating holiday shall be taken within the calendar year granted and shall not carry over from year to year. Unused holiday time will not be compensated upon termination.

2. Uniform Allowance—Sworn Peace Officers.

Deputy Sheriff I

Deputy Sheriff II

Sheriff's Captain

Sheriff's Lieutenant

Sheriff's Sergeant

a. If required by the county to wear a uniform as a regular part of their duties, a uniform allowance shall be paid on a biweekly basis. This shall not affect reserve deputies, honorary deputies and other county officers and employees deputized for special purposes. New employees will be advanced the first year's uniform allowance in their first full paycheck and receive uniform allowance on a biweekly basis upon their first-year anniversary.

b. The uniform allowance is one thousand sixty-five dollars (\$1,065.00) per year for Auburn area and one thousand two hundred fifteen dollars (\$1,215.00) per year for Tahoe area.

c. Employees appointed or reassigned to Dutch Flat or Foresthill resident deputy or to any position east of Serene Lakes shall receive a one-time winter clothing stipend in the amount of two hundred fifty dollars (\$250.00).

d. If purchase of the campaign hat is mandatory, the sheriff's department will pay for the cost of the hat and will reimburse association members immediately upon provision of a receipt.

3. Career and Education Incentive. Full-time permanent employees in the following classes shall be eligible for the career and education incentive:

Deputy Sheriff I

Deputy Sheriff II

Investigator—District Attorney

Investigator—Supervising District Attorney

Investigator—Welfare Fraud

Investigator—Welfare Fraud—Supervising

Sheriff's Captain

Sheriff's Lieutenant

Sheriff's Sergeant

~~a. Basic POST.~~

~~i. For employees represented by the PCDSA, Basic POST pay shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCDSA.~~

~~a.b. Intermediate POST.~~

i. For employees represented by the Placer County Law Enforcement Association (PCLEMA), compensation for POST intermediate certificate shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCLEMA.

ii. For employees represented by the PCDSA, Intermediate POST pay shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCDSA. **as follows:**

<u>Deputy Sheriff I</u>	<u>\$735/month</u>
<u>Deputy Sheriff II</u>	<u>\$1,030/month</u>
<u>Sheriff's Sergeant</u>	<u>\$1,225/month</u>
<u>Investigator – District Attorney</u>	<u>\$1,285/month</u>
<u>Investigator – Welfare Fraud</u>	<u>\$1,285/month</u>
<u>Investigator – Welfare Fraud – Supervising</u>	<u>\$1,385/month</u>

b.e. Advanced POST.

i. For employees represented by PCLEMA, compensation for POST advanced certificate shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCLEMA.

ii. For employees represented by the PCDSA, Advanced POST pay shall be pursuant to the terms of the Memorandum of Understanding between Placer County and the PCDSA **as follows:**

<u>Deputy Sheriff I</u>	<u>\$1,040/month</u>
<u>Deputy Sheriff II</u>	<u>\$1,460/month</u>
<u>Sheriff's Sergeant</u>	<u>\$1,735/month</u>
<u>Investigator – District Attorney</u>	<u>\$1,825/month</u>
<u>Investigator – Welfare Fraud</u>	<u>\$1,825/month</u>
<u>Investigator – Welfare Fraud – Supervising</u>	<u>\$1,960/month</u>

c.d. Full-time permanent employees represented by the PCDSA or PCLEMA will be eligible for educational incentive pay. To be eligible for educational incentive pay the degree must be from an accredited college, consistent with the human resources department practices in determining validity of the college and degree. Employees must present evidence of successful completion of a qualifying degree, consistent with this section to their department head, which shall determine and certify whether employees are eligible to receive educational incentive pay.

i. For employees represented by the PCDSA, the amount of the educational incentive for AA, BA or MA degrees shall be as set forth in the Memorandum of Understanding between Placer County and the PCDSA **follows:**

<u>Associate degree (AA)</u>	<u>\$100/pay period</u>
<u>Bachelor's degree (BA)</u>	<u>\$125/pay period</u>
<u>Master's degree (MA)</u>	<u>\$175/pay period</u>

ii. For employees represented by the PCLEMA, the amount of the educational incentive for AA, BA or MA degrees shall be as set forth in the Memorandum of Understanding between Placer County and the PCLEMA.

d.e. Employees may not receive educational incentive pay for more than one degree. The payments are not cumulative and only one degree qualifies for payment.

4. Uniform Allowance—PPEO Represented Employees. Uniform allowances shall be processed as a non-reimbursable, taxable, bi-weekly pay in accordance with procedures established by the Auditor Controller's office.

a. Seven Hundred Fifty Dollar (\$750.00) Allowance. An annual uniform allowance for employees who are required to wear a uniform as a regular part of their duties will be paid for the following class series in the amount of seven hundred fifty dollars (\$750.00) per year:

Administrative Clerk
 Administrative Legal Clerk
 Accounting Assistant
 Public Safety Dispatcher

Probation Department Staff Services Analyst
Probation Assistant
Probation Department Information Technology
Probation Department Executive Secretary
Probation Department Administrative Technician
Animal Care Attendant

b. One Thousand Sixty-Five Dollar (\$1,065.00) Allowance. An annual uniform allowance for employees who are required to wear a uniform as a regular part of their duties will be paid, for the following class series, in the amount of one thousand sixty-five dollars (\$1,065.00) per year:

Agricultural and Standards Inspectors
Animal Control Officer
Community Service Officer
Correctional Officer
Environmental Health Specialists
Environmental Health Technical Specialists
Environmental Health Technicians
Evidence Technician
Deputy Probation Officers – Field
Deputy Probation Officers – Institution
Investigative Assistant

5. Family and Children's Services (FACS) Unit Pay. Designated employees shall be paid five percent if they have been assigned to field activities of the Family and Children's Services (FACS) Unit or perform after hours responsibilities related to emergency child protective duties.

6. Special Teams Pay—Sworn Peace Officers. Special pay will be as follows for those employees assigned to the following special teams without regard to call-out:

a. Special Teams Pay and related special assignment pay shall be as set forth in the Memorandum of Understanding between the county and the PCLEMA.

b. Special Teams Pay and related special assignment pay **for employees represented by the PCDSA and assigned by the Sheriff to the following special teams, without regard to call out, shall be:** ~~shall be as set forth in the Memorandum of Understanding between the county and the PCDSA~~

- i. **Special Enforcement Team pay of \$150.00 per month.**
- ii. **Certified Divers Pay of \$150.00 per month.**
- iii. **Hostage Negotiations Team pay of \$150.00 per month.**
- iv. **Explosive Ordinance Detail pay of \$150.00 per month.**
- v. **Air Support Team pay of \$150.00 per month.**
- vi. **Detective Division Premium Pay of \$510 per month for employees designated by the Sheriff to work in the Investigations Division or by the District Attorney to work in an undercover capacity.**

7. Cell Extraction Response Team (CERT) Pay—PPEO Correctional Officers. The county will pay one hundred twenty-five dollars (\$125.00) per month special team pay for those correctional officers assigned by the sheriff to participate on the CERT Team.

8. Night Shift Differential.

a PPEO General and Professional Units and Confidential Employees.

i. For the purposes of this subsection, “regularly assigned to work,” means the hourly work schedule assigned to each employee.

ii. All employees regularly assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. shall receive a night shift differential of seven and one-half percent of base pay for all hours worked.

iii. All employees regularly assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. shall continue to receive the seven and one-half percent shift differential even when they work hours outside of the five p.m. to six a.m. time period.

iv. All employees who are not regularly assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. shall receive a night shift differential of seven and one-half percent of base pay for all hours worked between the hours of five p.m. and six a.m., provided the employee works a minimum of three hours between the period of five p.m. and six a.m., excluding any hours that are part of the employee’s regular shift.

~~b. PCDSA. Employees assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. on one or more shifts shall receive a shift differential of seven and one-half percent of base pay for all hours worked. Employees regularly assigned to work fifty (50) percent or more of their hours between the hours of five p.m. and six a.m. shall continue to receive the seven and one-half percent shift differential even when they work shifts that would otherwise not qualify for shift differential payments. Employees whose normal work shift does not qualify for night shift differential shall receive night shift differential when working a qualifying shift (fifty (50) percent or more of the hours are between the hours of five p.m. and six a.m.)~~ **For the purposes of this section, “Regularly assigned to work” means the hourly work schedule assigned on a quarterly basis to each employee.**

i. **Employees other than those regularly assigned to work at the jail shall receive a shift differential of \$4.41 per hour for any hours worked between 4:30 p.m. and 6:30 a.m., provided they work a minimum of one hour during that time period.**

ii. **Employees regularly assigned to work at the jail shall receive a shift differential of \$4.41 per hour for any hours worked between 4:30 p.m. and 6:30 a.m., provided they work a minimum of three hours during the time frame.**

iii. **Employees regularly assigned to work 50% or more of their hours between the hours of 4:30 p.m. and 6:30 a.m. shall continue to receive the \$4.41 per hour shift differential even when they work additional shifts that would otherwise not qualify for shift differential payments.**

c. PCLEMA. Employees assigned to work a majority of hours of a regular shift (e.g., five hours of eight) between the hours of five p.m. (Day 1) and eight a.m. (Day 2) shall receive a night shift differential of seven and one-half percent for all hours in that shift.

9. Rain Gear. Once every three years, employees assigned to the following areas shall be provided with rain gear, including coat, pants and boots, as deemed necessary by the appointing authority: roads, utility service workers, building maintenance, document solutions, central stores, animal control officers, TART bus drivers, building inspectors, mini-bus drivers, park and grounds workers, communications, garage, engineering technicians (when assigned field inspection duties),

environmental health workers, IT analysts, IT technicians, and deputy probation officers assigned to field duties. The appointing authority can replace an employee's rain gear more often as they deem necessary.

10. Supplemental Compensation—Declared Snow Shift Assignments.

a. The county will pay an assignment differential of ten (10) percent of base salary to each employee assigned by the appointing authority, or designee, to perform snow removal duties. No employee will receive work out of class pay for the purpose of performing snow removal duties.

b. The number eligible and time period for which such status is available shall be determined jointly by the director of public works and the county executive office.

c. Such compensation shall be in addition to any overtime to which the employee is entitled under the provisions of Section 3.04.240, et seq.

11. Bi-Lingual Pay. ~~PPEO Represented, Management, Confidential, PCDSA Represented and PCLEMA Represented Employees.~~ Upon request of the department head and approval of the director of human resources, designated employees shall be paid ~~an additional five percent of base salary~~ for the use of a second language in the normal course and scope of work. Sign language shall constitute a second language within the meaning of bilingual pay provided that the requisite certification procedures as defined by the director of human resources have been completed.

i. **PPEO Represented, Management, Confidential, Safety Management and PCLEMA Represented employees shall be paid an additional five percent (5%) of base salary.**

ii. **PCDSA Represented employees shall be paid an additional \$464 per month.**

12. Universal Technician Pay. Upon request of the department head, and approval by the director of human resources, the county will pay an additional five percent of base hourly rate, plus longevity if applicable, to employees who have been certified as a universal technician as required by 40 CFR Part 82, subpart F, and who are assigned duties in the department of facilities management that are consistent with that certification.

13. Tool Reimbursement. The following classifications shall receive a seven hundred fifty dollar (\$750.00) per year tool replacement allowance to be reimbursed quarterly in accordance with procedures established by the auditor controller's office. No more than one claim may be submitted for reimbursement in any calendar quarter. Classifications eligible for this personal reimbursement shall include:

11604	Automotive Mechanic
11605	Master Automotive Mechanic
11611	Equipment Mechanic
11613	Master Equipment Mechanic
11601	Equipment Service Worker I
11602	Equipment Service Worker II
13302	Supervising Mechanic

14. Jail Administrative Legal Clerk Training Pay. The county shall pay a differential of five percent of base salary to each employee in the classification of administrative legal clerk-journey and administrative legal clerk-senior who is assigned by the sheriff to work as a jail administrative legal clerk trainer. It shall be understood that the above-described training pay shall be paid to an employee only during the time assigned jail administrative legal clerk trainer responsibilities. Payment of said training pay to that employee shall cease at the time the sheriff terminates the jail administrative legal clerk training responsibilities or reassigns training responsibilities to another employee.

15. Field or Jail Training Officer.

a. The county shall pay ~~a differential of five percent of base salary~~ **\$389 per month** to each employee in the classification of deputy sheriff II who is assigned by the sheriff to work as a field training officer or as a jail training officer; provided that not more than twelve (12) employees shall receive the said ~~five percent~~ pay differential at any one time.

b. The county shall pay a differential of five percent of base salary to each employee in the classification of correctional officer II who is assigned by the sheriff to work as a jail training officer.

c. It shall be understood that the above-described salary differentials shall be paid to an employee only during the time they are assigned formal field training or jail training responsibilities. Payment of said differential to that employee shall cease at such time as the sheriff shall terminate the field training responsibilities or reassign same to another employee.

16. Public Safety Dispatcher Training Pay. The county shall pay a differential of five percent of base salary to each employee in the classification of public safety dispatcher II who is assigned by the sheriff to work as a dispatch trainer. It shall be understood that the above-described salary differential shall be paid to an employee only during the time they are assigned dispatcher trainer responsibilities. Payment of said differential to that employee shall cease at such time as the sheriff shall terminate the dispatcher trainer responsibilities or reassign same to another employee.

17. POST Dispatcher Certificate Pay. Employees permanently allocated to the classifications of public safety dispatcher I, public safety dispatcher II, supervising public safety dispatcher, and dispatch services supervisor will be eligible for the following certificate pays:

a. Incentive pay for possession of a POST dispatcher intermediate certificate will be one hundred dollars (\$100.00) per pay period.

b. Incentive pay for possession of a POST dispatcher advanced certificate will be one hundred twenty-five dollars (\$125.00) per pay period.

c. The above incentive amounts are not cumulative or compounded and employees will receive only one rate of incentive pay for the POST certification.

18. Lateral Signing Bonus. Public safety dispatcher II, supervising public safety dispatcher, and dispatch services supervisor; applicants with prior dispatch experience who are hired into permanently allocated positions will be eligible for the following one-time incentives upon their initial hire to the county:

a. An initial payment of one thousand five hundred dollars (\$1,500.00) will be added to the first paycheck earned, and

b. A second/final payment of one thousand dollars (\$1,000.00) will be paid out upon the successful completion of the entire probationary period as determined by the sheriff.

19. PPEO Professional Unit, Confidential and Management. The county shall pay a differential of five percent of base salary to each employee who obtains a certificate as a certified public accountant and who, with the concurrence of the county executive officer, makes use of the CPA in the course and scope of their employment.

20. Canine Pay. Sworn peace officers represented by PCDSA or PCLEMA and PPEO correctional officer classifications assigned by the sheriff or district attorney to the duty of supervision, care and feeding of a canine, as "canine handlers," shall receive canine pay of three hundred dollars (\$300.00) per month. **PCDSA Canine Handlers shall receive Canine Pay of five hours per 14-day work period, paid at the overtime rate of time and one-half the employee's base hourly rate of pay.**

a. All veterinary care and maintenance of the canine is to be provided at county expense. It is agreed that care and maintenance includes: veterinary care necessary to prevent and treat injuries and diseases, annual physical exams, and inoculations. County-owned canines shall receive veterinary care from a county designated veterinarian. Canine handler-owned canines may receive treatment from a county-designated veterinarian or one of the canine handler's choosing. Veterinary expenses incurred through county-designated veterinarians will be paid by the county through direct billing by the veterinarian. Expenses incurred through a veterinarian of the canine handler's choice will be paid by reimbursement to the canine handler for receipted claims, provided that in no event shall reimbursement exceed the amount normally paid to a county-designated veterinarian for the same or similar service. Food for the canine will be provided at the expense of the county through an established blanket purchase order and policy developed by the sheriff's department.

b. The county will provide for the replacement of the canine should it be disabled or killed as a result of a line-of-duty injury or accident at no expense to the canine handler.

c. This care and maintenance pay is granted in recognition of the personal monetary investment, duties and responsibilities of a canine handler, in light of the on-duty time already being provided and includes the time spent by the canine handler employee while off duty in the care and maintenance of the assigned canine, as well as reimbursement of canine related expenses. It represents good faith compensation associated with the daily care and maintenance of a canine outside the normal hours of work of the assigned canine handler employee during the month. The intent of this pay is to ensure compliance with all applicable state and federal labor laws, including, but not limited to, the Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., and 29 C.F.R. Section 785.23.

21. Jail Incentive Pay.

a. The county will pay an assignment differential of five percent of base salary to each employee in qualifying jobs, assigned to report to and work within the jail facility on a regular full or part-time basis. The qualifying jobs are:

- Accounting Assistant—Entry/Journey/Senior
- Accounting Technician
- Administrative Clerk—Entry/Journey/Senior
- Administrative Legal Clerk—Entry/Journey/Senior
- Administrative Legal Supervisor
- Administrative Secretary
- Building Craft Mechanic/Senior Building Craft Mechanic
- Client Services Counselor—I/II/Senior
- Client Services Practitioner—I/II/Senior
- Custodian—I/II

b. Senior administrative legal clerks assigned to work as shift supervisors will receive an additional five percent of base salary.

22. LCSW/MFT/MFCC Pay. The county shall pay an additional five percent of base hourly rate, plus longevity if applicable, to each employee in the classifications of client services practitioner I/II/senior and client services program supervisor, who obtains a certificate as a licensed clinical social worker (LCSW); marriage and family therapist (MFT); marriage, family, child counselor (MFCC); licensed professional counselor (LPCC); licensed psychologist (Ph.D. and Psy.D.).

23. Work Boot/Safety Shoe Allowance.

a. Each employee in the classifications listed below shall receive an annual work boot/safety shoe allowance of three hundred dollars (\$300.00). The annual safety shoe allowance shall be paid in equal payments each pay period. Employees receiving such allowance shall be required to wear work boots or safety shoes at all times while performing their job duties.

Agricultural and Standards Inspector I/II/Senior/Supervising
 Animal Care Attendant
 Animal Control Officer I/II/Senior/Supervising/Supervising Senior
 Assistant Road Superintendent
 Automotive Mechanic/Master Automotive Mechanic
 Building Crafts Mechanic/Senior/Supervising
 Building Inspector I/II/Senior/Supervising
 Bus Driver I/II/Senior
 Code Compliance Officer I/II/Supervising
 Custodian I/II/Senior/Supervising
 Emergency Services Specialist I/II/Senior
 Engineering Technician I/II
 Environmental Health Specialist—Registered—Assistant/Associate/Senior/Supervising
 Environmental Health Technical Specialist
 Environmental Health Technician I/II/Senior
 Equipment Mechanic/Master Equipment Mechanic
 Equipment Mechanic/Welder
 Equipment Operator/Equipment Operator—Senior
 Equipment Services Worker I/II
 Fleet Services Technician
 Information Technology Analyst I/II/Senior (Assigned to Telecommunications)
 Information Technology Technician I/II/Supervisor (Assigned to Telecommunications)
 Maintenance Worker
 Mechanic—Supervising
 Park and Grounds Worker/Senior/Supervising
 Road District Supervisor/Road District Supervisor—Senior
 Storekeeper
 Surveyor Assistant/Associate/Senior
 Traffic Sign Maintenance Worker/Senior
 Traffic Sign Supervisor/Traffic Sign Supervisor—Senior
 Transportation Supervisor
 Tree Trimmer/Tree Trimmer—Senior
 Tree Maintenance Supervisor/Tree Maintenance Supervisor—Senior
 Utility Service Worker/Senior/Supervising

Utility Operations Supervisor

Waste Disposal Site Attendant/Senior/Supervisor

Wildlife Specialist

b. Administrative Dispatcher Assigned to Tahoe. Employees in the department of public works assigned to the classification of administrative dispatcher assigned to Tahoe shall receive an annual work boot/safety shoe allowance of one hundred fifty dollars (\$150.00) per year. The annual work boot/safety shoe allowance shall be paid in equal payments each pay period. Employees receiving such allowance shall be required to wear work boots or safety shoes at all times while performing their job duties.

24. Inmate Oversight Pay—PPEO Represented Employees. Inmate oversight pay shall be as set forth in the Memorandum of Understanding.

25. Wellness Incentive—PCLEMA. Wellness incentive pay shall be as set forth in the Memorandum of Understanding between the county and the PCLEMA.

26. PPEO represented employees may receive a pay differential of two and one-half percent of base salary for special skill certification(s) and/or licenses. To qualify, the certification(s) shall meet the following criteria:

- a. Certification/license is for the performance of duties required by the county and approved by the employee's appointing authority and the county executive officer.
- b. Certification/license is for the performance of duties not specified in the employee's job classification and/or required as a minimum qualification.
- c. Certification/license must be required by the state of California or a regulatory agency in order to perform or oversee the duties.
- d. Certification/license must be renewable and be kept current.
- e. Certification/license duties are not already identified for additional compensation in the current MOU between PPEO and the county.

The pay differential will cease under any of the following conditions:

- i. The employee's duties or work assignment change,
- ii. The certification/license is no longer necessary or applicable,
- iii. The certification/license is not used or required to perform the duties, or
- iv. The employee fails to maintain the certification/license.

27. Building Inspector Certificate Pay. Certificates that are attained by employees in the classifications of building inspector I/II, senior, and supervising, beyond those presented to meet the minimum qualification as stated in the class specifications shall be compensated at the rate of fifty dollars (\$50.00) per certificate per month up to a maximum of two hundred dollars (\$200.00) per month for each of the certificates listed: plans examiner, plumbing, mechanical, electrical (commercial or residential). The county will reimburse a qualifying employee for all initial exams and renewal fees associated with the above certificates for up to three exams per year.

28. Undercover Pay. An employee within the following classifications designated by the sheriff and the chief probation officer to work an undercover assignment shall receive five percent additional compensation:

Deputy Probation Officer I/II

Senior and Supervising Deputy Probation Officer

29. Confidential Pay. Permanent employees in positions designated as confidential, as defined in the Placer County Employer and Employee Relations Policy, shall receive three and one-half percent additional pay.

30. Licensure/Certification. Management employees in the health and human services department who possess and use specialty licensure or certification which is above the minimum qualification and used during the normal course and scope of their position will receive a pay differential of five percent of base salary; example, licensed clinical social worker (LCSW).

31. Tuition Reimbursement. Pursuant to the terms and conditions set forth in the county's tuition reimbursement policy, classified management employees are eligible for tuition reimbursement in the amount of one thousand two hundred dollars (\$1,200.00) per calendar year. PPEO and PCDSA represented employees may be eligible for tuition reimbursement pursuant to the applicable memorandum of understanding.

32.

ADMIN.

CODE	CLASSIFICATION TITLE
15585	Architectural Assistant I *a
14210	Architectural Assistant II *a
14207	Assistant Surveyor *b
13545	Capital Improvements Manager *a
14202	Engineer – Assistant *b
13522	Property Manager *a
13519	Utility Program Manager *b

*a All employees in this class shall be paid at the corresponding step of the next higher salary grade upon presentation of the certificate of registration as a licensed architect issued by the California State Board of Architectural Examiners.

*b The county will pay an additional five percent of the base hourly rate, plus longevity if applicable, upon presentation of a certificate of registration as a civil engineer or land surveyor issued by the California State Board of Registration for Professional Engineers.

33. All pays listed in this section must meet the CalPERS definition of special compensation to be considered reportable. CalPERS solely determines whether any or all pays listed in this section meet the CalPERS definition of special compensation for the calculation of retirement benefits. The county is not responsible for reporting any pays not determined by CalPERS to be reportable. (Ord. 6068-B § 1, 2021; Ord. 6062-B § 1, 2020; Ord. 5991-B § 1, 2019; Ord. 5903-B § 2, 2018; Ord. 5894-B § 4, 2017; Ord. 5885-B § 3, 2017; Ord. 5879-B § 11, 2017; Ord. 5835-B § 1, 2016; Ord. 5766-B § 1, 2015; Ord. 5740-B §§ 15—18, 2014; Ord. 5719-B § 3, 2013; Ord. 5700-B § 37, 2013; Ord. 5683-B § 49, 2012; Ord. 5608-B § 6, 2010; Ord. 5597-B, 2010; Ord. 5572-B § 17, 2009; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; Ord. 5472-B, 2007; Ord. 5451-B, 2007; Ord. 5448-B, 2007; Ord. 5447-B, 2007; Ord. 5443-B, 2007; Ord. 5442-B, 2007; Ord. 5441-B, 2007; Ord. 5428-B, 2006; Ord. 5426-B, 2006; Ord. 5422-B, 2006; Ord. 5414-B, 2006; Ord. 5410-B, 2006; Ord. 5396-B, 2006; Ord. 5391-B, 2005; Ord. 5386-B, 2005; Ord. 5382-B, 2005; Ord. 5379-B, 2005; Ord. 5372-B, 2005; Ord. 5363-B, 2005; Ord. 5361-B, 2005; Ord. 5349-B, 2005; Ord. 5343-B, 2004; Ord. 5337-B, 2004; Ord. 5336-B, 2004; Ord. 5334-B, 2004; Ord. 5314-B, 2004; Ord. 5312-B, 2004; Ord. 5311-B, 2004; Ord. 5309-B, 2004; Ord. 5303-B, 2004; Ord. 5297-B, 2004; Ord. 5288-B, 2004; Ord. 5286-B, 2004; Ord. 5281-B, 2004; Ord. 5279-B, 2003; Ord. 5267-B, 2003; Ord. 5263-B, 2003; Ord. 5261-B, 2003; Ord. 5260, 2003; Ord. 5257-B, 2003; Ord. 5256-B, 2003; Ord. 5254-B, 2003; Ord. 5247-B, 2003; Ord. 5240-B, 2003; Ord. 5230-B, 2003; Ord. 5224-B, 2003; Ord. 5216-B, 2002; Ord. 5215-B, 2002; Ord. 5205-B, 2002; Ord. 5203, 2002;

Ord. 5197-B, 2002; Ord. 5194-B, 2002; Ord. 5193-B, 2002; Ord. 5189-B, 2002; Ord. 5186-B, 2002; Ord. 5172-B, 2002; Ord. 5165-B, 2002; Ord. 5164-B, 2002; Ord. 5163-B, 2002; Ord. 5160-B, 2002; Ord. 5153-B, 2002; Ord. 5150-B, 2002; Ord. 5139-B, 2001; Ord. 5138-B, 2001; Ord. 5137-B, 2001; Ord. 5115-B, 2001; Ord. 5099-B, 2001; Ord. 5100-B, 2001; Ord. 5107-B, 2001; Ord. 5111-B, 2001; Ord. 5095-B, 2001; Ord. 5089-B, 2001; Ord. 5085, 2001; Ord. 5083-B, 2001; Ord. 5075-B, 2001; Ord. 5069-B, 2000; Ord. 5062-B, 2000; Ord. 5058-B (Attach. 1, 2, 5, 6, 7, 8, 9, 28, 30), 2000; Ord. 5044-B, 2000; Ord. 5040-B, 2000; Ord. 5032-B, 2000; Ord. 5029-B (Attach. A, D, F), 2000; Ord. 5028-B, 2000; Ord. 5026, 2000; Ord. 5017-B, 2000; Ord. 5014-B, 2000; Ord. 4998-B, 1999; Ord. 4988-B, 1999; Ord. 4986-B, 1999; Ord. 4970-B, 1999; Ord. 4967-B, 1999; Ord. 4963-B, 1999; prior code § 14.3000)

3.12.040 Salaries—~~Placer County sheriff's ordinance initiative~~All represented employees.

Pursuant to Article XI, Sections 1, 3, and 4 of the California Constitution, Sections 302 and 604 of the Placer County Charter, adopted by the electorate on November 4, 1980, and California Government Code Sections 3504 and 3505, the Board of Supervisors shall negotiate and set compensation for all employees represented by PPEO, PCLEMA, and DSA.

A. ~~The board of supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County sheriff's office, El Dorado County sheriff's office, and Sacramento County sheriff's office for each class of position employed by said agencies.~~

~~—B.— Effective January 1, 1977, and effective January 1st of each year thereafter the board of supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first period following January shall fix the average salary for each class of position in the Placer County sheriff's office at a level equal to the average of the salaries for the comparable positions in the Nevada County sheriff's office, El Dorado County sheriff's office and the Sacramento County sheriff's office.~~

~~—C.— As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:~~

~~—1.— Corporal, sergeant, deputy.~~

~~—D.— The provisions of this chapter shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are not elected by popular vote. (Ord. 6060-B § 1, 2020; Ord. 5478-B (Attach. A), 2007; Ord. 5441-B, 2007; prior code § 14.3005)~~

3.12.060 Longevity pay.

A. PPEO Represented, Management, Confidential and Unclassified Nonmanagement Employees. Effective the first day of the pay period that includes November 1, 2019 and subject to the conditions specified herein, PPEO Represented, Management, Confidential and Unclassified Nonmanagement Employees shall be eligible for longevity pay under one of the following formulas.

1. Longevity Pay A. This category of longevity pay applies only to permanent employees who are already receiving longevity pay on or before October 31, 2019. For this category, each permanent employee will continue to receive longevity pay, which is a one-time five percent increase, calculated pursuant to subsection (A)(5). The basis to receive longevity pay will be determined by either one (but not both) of the following two formulas:

- a. The permanent employee has been at step 5 of their salary grade for ten thousand four hundred (10,400) paid hours (five years continuous full-time paid service) with Placer County.
 - b. The permanent employee has worked at least ten thousand four hundred hours (10,400) paid hours (five years of continuous full-time paid service) calculated from the beginning of employment with Placer County.
2. Longevity Pay B. This category of longevity pay applies to permanent employees hired on or before October 31, 2019, that have not qualified for longevity pay by October 31, 2019. For this category, each permanent employee who has at least twenty thousand eight hundred (20,800) continuous paid hours calculated from the beginning of employment (ten (10) years of continuous full-time paid service) with Placer County shall receive as longevity pay a two percent increase, calculated pursuant to subsection (A)(5). Each permanent employee who has at least thirty-one thousand two hundred (31,200) continuous paid hours calculated from the beginning of employment (fifteen (15) years of continuous full-time paid service) shall receive as longevity pay a three percent increase, calculated pursuant to subsection (A)(5). This category of longevity pay shall be calculated on a cumulative basis to equal no more than five percent in total.
3. Longevity Pay C. This category of longevity pay applies solely to retirees of the county with a retirement date of October 31, 2019, or earlier that were PPEO Represented, Management, Confidential and Unclassified, Nonmanagement Employees that had received longevity pay prior to his or her retirement. For this category, each retiree that received longevity pay on or before October 31, 2019, is deemed to have earned longevity pay under one of the following two formulas:
- a. The retiree was a permanent employee that had been at step 5 of their salary grade for ten thousand four hundred (10,400) paid hours (five years full-time paid service) with Placer County.
 - b. The retiree was a permanent employee that worked at least ten thousand four hundred hours (10,400) paid hours (five years of continuous full-time paid service) calculated from the beginning of employment with Placer County.
- If the retiree had not received longevity pay prior to their retirement on or before October 31, 2019, this subsection does not grant or change the longevity pay status to the retiree as it applies only to retirees that had already received longevity pay on or before October 31, 2019.
4. PPEO represented, management, confidential and unclassified nonmanagement employees permanently hired on or after November 1, 2019, shall not be eligible for longevity pay.
5. Longevity pay shall be applied to current base hourly rate published in the salary schedule plus percentage-based special compensation identified in Section 3.12.020 or 3.12.030 of this code, as applicable.
6. For purposes of Longevity Pay A employees and Longevity Pay C retirees of the County with a retirement date of October 31, 2019, or earlier, an employee or retiree who took a voluntary demotion, transfer or reclassification to a lower salary grade is deemed to have the previously earned work hours at the higher salary grade count towards the longevity pay calculation in the lower salary grade.
7. Any form of overtime hours, extra-help hours and time off without pay regardless of the reason, will not be included for purposes of determining eligibility for longevity pay under any of the longevity pay formulas.
8. Eligible employees or retirees can qualify for longevity pay only pursuant to one of the longevity pay formulas. Once a longevity increase has been provided to an employee it will remain with the employee regardless of any future position or classification changes.
9. Employees who separate from county service, but who reinstate at a future date, will follow the reinstatement provisions found in Section 3.08.1150 for eligibility for longevity pay.

10. Probation officer series employees who have received the ten (10) year and/or twenty (20) year longevity pay under the DSA MOU and subsection B of this section as of April 1, 2008, will continue to receive said pay in a grandfathered status. Probation officer series employees will follow the PPEO professional unit longevity provision if they had not received longevity pay as of April 1, 2008.

B. Deputy Sheriffs' Association and Safety Management. Permanent employees meeting the following criteria shall be eligible to receive two five percent increases, calculated pursuant to subsection(B)(3), which shall be referred to as "longevity pay." As to either step alternative, a break in service will result in a new calculation for a new five or ten (10) year period, and no service prior to the break will be counted as part of the new five or ten (10) year period. Extra help time and time off without pay will not be included as part of this calculation. Time off without pay for disciplinary reasons or unpaid leave of absence will not constitute a break in service. Time off for these reasons will not count toward the completion of the required service time.

1. Longevity Pay 1 (Five Percent). An employee is eligible for five percent longevity pay upon meeting the requirements in either subsection (B)(1)(a) or (b), but cannot earn both:

a. Each permanent employee who has been at step 5 of their salary grade in the same classification for ten thousand four hundred (10,400) paid hours (five years full-time paid service) with Placer County shall be eligible. **This special compensation is not reportable to CalPERS.**

b. Each permanent employee who has at least twenty thousand eight hundred (20,800) paid hours (ten (10) years of full-time paid service) with Placer County shall be eligible.

2. Longevity Pay 2 (Additional Five Percent for a Total of Ten (10) Percent). Each permanent employee who has at least forty-one thousand six hundred (41,600) paid hours (twenty (20) years of full-time paid service) with Placer County, shall receive an additional five percent increase, calculated pursuant to subsection (B)(3).

3. Longevity shall be applied to current base hourly rate published in the salary schedule plus percentage-based special compensation identified in Section 3.12.020 of this code, as applicable. For safety management, classified and unclassified, longevity shall be applied to base hourly rate plus percentage-based special compensation identified in Section 3.12.020 or 3.12.030 of this code and flat special compensation allowances for POST intermediate certificate, POST advanced certificate, undercover assignment, and wellness, as applicable.

4. Employees who separate from county service, but who reinstate at a future date will follow the reinstatement provisions for eligibility for longevity pay; within two years maintains prior eligibility; two years or more is treated as a new employee.

5. Any form of overtime hours, extra help hours and time off without pay regardless of the reason will not be included for purposes of eligibility for longevity.

6. Once such longevity increase (longevity pay 1 and 2) **has** been provided to an employee, that employee shall have no further right to a longevity increase. The longevity increase(s) will remain with the employee regardless of any future position or classification changes.

C. Elected Department Heads. Effective January 13, 2001, and continuing thereafter, elected department heads shall be eligible at the beginning of the first full pay period of the seventh year in office to receive a one-time five percent increase in their then current salary. This longevity pay shall be calculated only on a cumulative basis with any other longevity pays earned under subsection A or B. Longevity shall be applied to current base hourly rate published in the salary schedule plus percentage-based special compensation identified in Section 3.12.030 of this code and flat special compensation allowances for POST intermediate certificate, POST advanced certificate, undercover assignment, and wellness, as applicable. (Ord. 6072-B § 1, 2021; Ord. 6068-B § 1, 2021; Ord. 5992-B § 1, 2019; Ord.

5740-B § 19, 2014; Ord. 5683-B § 50, 2012; Ord. 5627-B § 25, 2010; Ord. 5478-B (Attach. A), 2007; Ord. 5309-B, 2004; Ord. 5058-B (Attach. 29), 2000; prior code § 14.3050)

3.12.080 Tahoe branch assignment premium.

Employees meeting the following criteria shall receive the following monthly additional compensation:

A. Confidential, Management, and Unclassified Employees permanently assigned to a position located in the North Lake Tahoe area and who reside within fifty (50) driving miles of the Placer County Tahoe Administrative Center, located at 775 N. Lake Blvd in Tahoe City, will qualify for the Tahoe Branch Assignment Premium.

1. Effective the first pay period following July 1, 2019, Tahoe Branch Assignment Premium shall be eight hundred and seventy-five dollars (\$875) per month.
2. Employees will be required to request the Tahoe Branch Assignment Premium and will need to demonstrate and certify residency within the specified areas.
3. Employees will be required to notify Human Resources if they no longer reside in an area qualifying for Tahoe Branch Assignment Premium.
4. Employees already receiving Tahoe Branch Assignment Premium at the time this ordinance is effective will continue to receive the premium for the uninterrupted and continuous duration of the employee's position in the North Lake Tahoe area. If an employee no longer occupies a position in the North Lake Tahoe area, but resumes a position in the North Lake Tahoe area after the adoption of this agreement, the residency requirement of this section will apply to the employee upon re-occupying the same or different position in the North Lake Tahoe area.
5. Residency under this section shall be determined in accordance with California Government Code Section 244.

B. For employees represented by the Placer County Law Enforcement Management Association, Tahoe Branch Assignment Premium Pay shall be as set forth in the Memorandum of Understanding between the county and the PCLEMA.

C. For employees represented by the ~~Placer County Deputy Sheriff's Association~~ **PCDSA**.

- 1. Tahoe Branch Assignment Premium Pay shall be as set forth in the Memorandum of Understanding between the county and the PCDSA eight hundred seventy-five dollars (\$875) per month.**
- 2. Effective October 9, 2021, employees hired into or transferring into a position located in the North Lake Tahoe area and who have a primary residence or rent a dwelling within 50 driving miles of the Placer County Sheriff's Office Burton Creek substation will qualify for the Tahoe Branch Assignment Premium.**
 - a. Employees will be required to request Tahoe Branch Assignment Premium pay and will need to demonstrate and certify residency or rental of a dwelling within the specified areas.**
 - b. Employees will be required to notify Human Resources if they no longer reside or rent a dwelling in an area qualifying for Tahoe Branch Assignment Premium Pay.**
 - c. Employees already receiving Tahoe Branch Assignment Premium Pay as of October 9, 2021 will continue to receive the premium for the uninterrupted and continuous duration of the employee's position in the North Lake Tahoe area, but if resuming a position in**

the North Lake Tahoe area after said date, the residency requirement of this section will apply to the employee upon re-occupying the same or different position in the North Lake Tahoe area.

d. “Primary residence” shall be determined in accordance with the Government Code Section 244.

D. For employees represented by the Placer Public employees Organization, Tahoe Branch Assignment Premium shall be as set forth in the Memorandum of Understanding between the county and the PPEO. (Ord. 5986-B § 2, 2019; Ord. 5894-B § 6, 2017; Ord. 5885-B § 4, 2017; Ord. 5879-B § 9, 2017; Ord. 5835-B § 3, 2016; Ord. 5749-B § 2, 2014; Ord. 5747-B § 2, 2014; Ord. 5740-B § 20, 2014; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; Ord. 5443-B, 2007; Ord. 5442-B, 2007; Ord. 5309-B, 2004; Ord. 5058-B (Attach. 26), 2000; Ord. 5029-B (Attach. E), 2000; prior code § 14.3092)

Before the Board of Supervisors County of Placer, State of California

In the matter of: An ordinance implementing salary and benefits adjustments for employees represented by the Placer County Deputy Sheriffs' Association.

Ordinance No.: _____

Introduced: September 14, 2021

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA,
DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. This ordinance implements salary adjustments for employees represented by the Placer County Deputy Sheriff's Association (PCDSA) as set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. This ordinance shall be effective the first pay period following adoption unless otherwise set forth in Exhibit A.

Section 3. That this ordinance is adopted as an un-codified ordinance.

Exhibit A: Compensation Adjustments for Employees Represented by Placer County Deputy Sheriffs' Association

EXHIBIT A

SALARY ADJUSTMENTS

PCDSA represented employees shall receive general wage increases as follows:

• Deputy Sheriff Trainee	1.09%
• Deputy Sheriff I	1.09%
• Assistant Deputy Sheriff I	1.09%
• Deputy Sheriff II	1.09%
• Chief Deputy Coroner	1.41%
• Sheriff's Sergeant	1.41%
• Investigator – District Attorney	1.41%
• Investigator – Welfare Fraud/Child Support	1.41%
• Investigator – Welfare Fraud – Supervising	1.41%

HEALTH CARE

- a. Effective January 1, 2022, the County shall pay up to 80% of the total premium for the PORAC health plan offered by the County.
- b. Employees who select a health plan with higher monthly premiums than the maximum monthly premium paid by the county (Section a. above) shall pay the difference through payroll deduction. Should employees select a health plan with lower monthly premiums than the maximum monthly premium paid by the County, the County's contribution shall be limited to the cost of the selected plan premium.

Before the Board of Supervisors County of Placer, State of California

In the matter of:

Adopting the CalPERS Resolution to change the
Employer Paid Member Contributions for Placer
County Deputy Sheriffs' Association
Miscellaneous Employees in Welfare Fraud
Investigator Classification Series.

Resolution No.: _____

The following Resolution was duly passed by the Board of Supervisors of the County of
Placer at a regular meeting held September 14, 2021, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, the governing body of Placer County has the authority to implement
Government Code 20691; and

WHEREAS, the governing body of Placer County has a written labor policy or
agreement which specifically provides for the normal member contributions to be paid
by the employer; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the
adoption by the governing body of Placer County of a Resolution to commence said
Employer Paid Contributions (EPMC); and

WHEREAS, the governing body of Placer County has identified the following conditions for the purpose of its election to pay EPMC:

- This benefit shall apply to all miscellaneous employees of the Placer County Deputy Sheriffs' Association in the Welfare Fraud Investigation classification series.
- This benefit shall consist of paying 4% of the normal member contribution as EPMC for employees hired prior to January 1, 2011.
- The effective date of this Resolution shall be September 25, 2021.

BE IT RESOLVED, by the Board of Supervisors, County of Placer, State of California, that the governing body of Placer County elects to pay EPMC as set forth above.

Before the Board of Supervisors County of Placer, State of California

In the matter of:

Adopting the CalPERS Resolution to change the
Employer Paid Member Contributions for Placer
County Deputy Sheriffs' Association Safety
Employees.

Resolution No.: _____

The following Resolution was duly passed by the Board of Supervisors of the County of
Placer at a regular meeting held September 14, 2021, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, the governing body of Placer County has the authority to implement
Government Code Section 20691; and

WHEREAS, the governing body of Placer County has a written labor policy or
agreement which specifically provides for the normal member contributions to be paid
by the employer; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the
adoption by the governing body of Placer County of a Resolution to commence said
Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of Placer County has identified the following conditions for the purpose of its election to pay EPMC:

- This benefit shall apply to all employees of the Placer County Deputy Sheriffs' Association covered by the CalPERS Safety Retirement Plan.
- This benefit shall consist of paying 2.75% of the normal member contributions as EPMC for employees hired prior to January 1, 2011.
- The effective date of this Resolution shall be September 25, 2021

BE IT RESOLVED, by the Board of Supervisors, County of Placer, State of California that the governing body of Placer County elects to pay EPMC as set forth above.

1 **PROOF OF SERVICE**

2 SHORT TITLE OF CASE: *Placer County DSA, et al. vs. County of Placer*

3 I am a citizen of the United States and a resident of the County of Sacramento. I am over
4 the age of 18 years and am not a party to the within action. My business address is 1912 I Street,
Sacramento, California 95811. My e-mail is jdelgado@mastagni.com.

5 On **January 21, 2022**, I served the below-described document(s) by the following means
6 of service:

7 **X BY U.S. FIRST-CLASS MAIL [C.C.P. §§1013 & 1013(a)]:**

8 I placed the envelope for collection and mailing, following our ordinary business practices. I
9 am readily familiar with this firm's business practice of collecting and processing
10 correspondence for mailing. On the same day that correspondence is placed for collection and
mailing, it is deposited in the ordinary course of business with the United States Postal Service,
in a sealed envelope with postage fully paid; and

11 **X BY ELECTRONIC SERVICE [C.C.P. §1010.6(a)]:**

12 Based on a court order or an agreement of the parties to accept electronic service, I caused a
.pdf version of the below-described documents to be sent to the persons at the electronic mail
addresses set forth below.

13 NAME/DESCRIPTION OF DOCUMENT(S) SERVED:

- 14 • **AMENDED VERIFIED PETITION FOR WRIT OF MANDATE AND**
15 **COMPLAINT FOR DECLARATORY RELIEF**

16 ADDRESSES OF SERVICE:

17 ***Via U.S. Mail & E-Mail***

18 Michael Youril
19 myouril@lcwlegal.com
20 Lars Reed
21 lreed@lcwlegal.com
22 Liebert Cassidy Whitmore
5250 North Palm Ave, Ste 310
Fresno, CA 93704

23 I declare under penalty of perjury, under the laws of the State of California, that the
24 foregoing is true and correct and was executed on **January 21, 2022**, at Sacramento, California.

25 /s/ Jessica Delgado
26 Jessica Delgado
27
28

Exhibit 3

Michael D. Youril, Bar No. 285591
myouril@lcwlegal.com

Lars T. Reed, Bar No. 318807
lreed@lcwlegal.com

LIEBERT CASSIDY WHITMORE

A Professional Law Corporation

400 Capitol Mall, Suite 1260

Sacramento, CA 95814

Telephone: 916-584-7000

Facsimile: 916-584-7083

Attorneys for Respondent COUNTY OF PLACER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

PLACER COUNTY DEPUTY
SHERIFFS' ASSOCIATION and NOAH
FREDERITO,

Petitioners,

v.

COUNTY OF PLACER,

Respondent.

Case No.: S-CV-0047770

Complaint Filed: December 21, 2021

**RESPONDENT COUNTY OF PLACER'S
NOTICE OF DEMURRER AND DEMURRER
TO PETITIONERS PLACER COUNTY
DEPUTY SHERIFFS' ASSOCIATION AND
NOAH FREDERITO'S AMENDED PETITION
FOR WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY RELIEF**

Date: March 3, 2022

Time: 8:30 a.m.

Dept.: 42

(*Exempt from filing fees pursuant to Gov.
Code, § 6103.)

TO PETITIONERS AND THEIR ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that on March 3, 2022 at 8:30 a.m., or as soon thereafter as the matter may be heard in Department 42 of the above-entitled Court, located at 10820 Justice Center Drive, Roseville, California, Respondent County of Placer (hereinafter "Respondent" or "County") will and hereby does demur to the Amended Verified Petition for Writ of Mandate and Complaint for Declaratory Relief ("Petition") filed by Petitioners Placer County Deputy Sheriffs' Association (hereinafter "DSA") and Noah Frederito (collectively hereinafter "Petitioners").

///

1 Defendant demurs to the Petition pursuant to Code of Civil Procedure section 430.10,
2 subdivisions (a), (e), and (f), on the grounds set forth in the demurrer below, which is
3 incorporated fully herein by reference. The Demurrer is based on this Notice of Demurrer and
4 Demurrer, the Memorandum of Points and Authorities served and filed herewith, the Declaration
5 of Lars T. Reed, all of the pleadings and papers on file with the Court herein, on such matters as
6 the Court may take judicial notice, and any further evidence and argument that the Court may
7 receive at or before the hearing on this Demurrer.

8 **Statutory Meet & Confer**

9 Pursuant to Code of Civil Procedure section 430.41, and Local Rule 20.2.1, the Parties
10 have met and conferred by telephone regarding the grounds for demurrer, and were not able reach
11 an agreement resolving the objections raised herein. (Reed Decl. at ¶¶ 3-9.)


12 **Local Rule 20.2.3 Notice**

13 Pursuant to Local Rule 20.2.3, the court will issue a tentative ruling for this matter on the
14 court day before the hearing. The tentative ruling will be available after 12:00 noon as an audio
15 recording accessible at (916) 408-6480; the tentative ruling will also be available at the court's
16 website, www.placer.courts.ca.gov. The tentative ruling shall become the final ruling on the
17 matter and no hearing will be held unless oral argument is timely requested or the tentative ruling
18 indicates otherwise. Requests for oral argument must be made by calling (916) 408-6481 no later
19 than 4:00 p.m. on the court day prior to the hearing.

20 Dated: February 2, 2022

LIEBERT CASSIDY WHITMORE

21
22
23 By:


24 Michael D. Youril
25 Lars T. Reed
26 Attorneys for Respondent
27 COUNTY OF PLACER
28

DEMURRER

Respondent hereby demurs pursuant to Code of Civil Procedure section 430.10 as follows:

Demurrer to the First Cause of Action

1. Petitioners' first cause of action fails to state facts sufficient to constitute a cause of action for violation of Elections Code Section 9125. (Code Civ. Proc., § 430.10, subd. (a), (e).) The cited ballot initiative – Measure F of 1976 – was an unconstitutional use of the local initiative right because it violates Article XI, Section 1, of the California Constitution, by depriving the County Board of Supervisors of its constitutional authority to set compensation for County employees. (Cal. Const., art. XI, § 1, subd. (b); *Meldrim v. Board of Supervisors of Contra Costa County* (1976) 57 Cal.App.3d 341; *Jahr v. Casebeer* (1999) 70 Cal.App.4th 1250.)

2. Petitioners' first cause of action fails to state facts sufficient to constitute a cause of action for violation of Elections Code Section 9125. (Code Civ. Proc., § 430.10, subd. (a), (e).) Measure F was an unconstitutional use of the local initiative right because it unlawfully delegates to third parties the County Board of Supervisors' constitutional authority to set employee compensation. (*See County of Riverside v. Superior Court* (2003) 30 Cal.4th 278.)

3. Petitioners' first cause of action fails to state facts sufficient to constitute a cause of action for violation of Elections Code Section 9125. (Code Civ. Proc., § 430.10, subd. (a), (e).) Measure F deprives both the County and the DSA the right to negotiate over wages for County employees represented by the DSA; accordingly, the Meyers-Milias-Brown Act preempts and supersedes Measure F. (*Voters for Responsible Retirement v. Board of Supervisors of Trinity County* (1994) 8 Cal.4th 765.)

4. Petitioners' first cause of action fails to state facts sufficient to constitute a cause of action for violation of Elections Code Section 9125. (Code Civ. Proc., § 430.10, subd. (a), (e).) When the voters of Placer County enacted the Placer County Charter in 1980, this superseded Measure F because the Charter specifically grants the Board of Supervisors the authority to set the compensation of County employees. (Placer County Charter § 302, subd. (b); Cal. Const., art. XI, § 3, subd. (a) ["County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith."].)

Demurrer to the Second Cause of Action

5. Petitioners' second cause of action fails to state facts sufficient to constitute a cause of action for Violation of Placer County Code section 3.12.040. (Code Civ. Proc., § 430.10, subd. (a), (e).) The County Board of Supervisors lawfully amended Placer County Code section 3.12.040 on September 28, 2021 pursuant to its legal authority under the California Constitution and the County Charter. (Cal. Const., art. XI, § 1, subd. (b); Placer County Charter § 302, subd. (b).) The Board's actions in implementing changes to compensation for DSA-represented employees was consistent with the amended ordinance.

6. Petitioners' second cause of action for violation of Placer County Code section 3.12.040 is uncertain, such that Respondent cannot reasonably ascertain what it is supposed to respond to. (Code Civ. Proc., § 430.10, subd. (f); *see Williams v. Beechnut Nutrition Corp.* (1986) 185 Cal.App.3d 135, 139 fn. 2.). Petitioners fail to identify any legal theory or cite to any legal authority supporting their assertion that the United States and California Constitutions create a duty for the County to set compensation for DSA-represented County employees according to the Measure F formula.


Demurrer to the Third Cause of Action

7. Petitioners' third cause of action fails to state facts sufficient to constitute a valid claim for declaratory relief. (Code Civ. Proc. § 430.10, subd. (a), (e).) Petitioners' claim for declaratory relief fails because it is "wholly derivative" of the substantive claims set forth in their first and second causes of action, which are invalid as a matter of law for the reasons described above. (*Ball v. FleetBoston Financial Corp.* (2008) 164 Cal.App.4th 794, 800.)

Dated: February 2, 2022

LIEBERT CASSIDY WHITMORE

By:


Michael D. Youril
Lars T. Reed

Attorneys for Respondent COUNTY OF PLACER

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. STANDARD OF REVIEW	2
III. SUMMARY OF RELEVANT FACTS	2
A. THE PARTIES.....	2
B. IN 1976, PLACER COUNTY VOTERS APPROVE AN ORDINANCE THAT SET A FIXED FORMULA FOR SHERIFF DEPUTIES' SALARIES	3
C. VOTERS ENACT THE PLACER COUNTY CHARTER IN 1980, GIVING SALARY-SETTING AUTHORITY TO THE BOARD OF SUPERVISORS.....	4
D. THE BOARD OF SUPERVISORS VOTE TO REPEAL COUNTY CODE SECTION 3.12.040 AND CHANGE COMPENSATION FOR DEPUTIES	5
IV. LEGAL ARGUMENT.....	5
A. DEMURRER TO THE FIRST CAUSE OF ACTION, ALLEGING VIOLATION OF ELECTIONS CODE SECTION 9125.....	5
1. The County Board of Supervisors Has Exclusive Authority to Set Employee Compensation.....	6
2. Measure F Unlawfully Deprives the Board of its Constitutional Authority to Set Wages and Delegates It to Neighboring Counties.....	7
3. Measure F is Unenforceable Because It Is Preempted by the MMBA.....	10
4. Measure F was Superseded by the County Charter in 1980.....	11
5. Without a Valid Initiative, There Can Be No Violation of Section 9125.....	12
B. DEMURRER TO THE SECOND CAUSE OF ACTION, ALLEGING VIOLATION OF PLACER COUNTY CODE SECTION 3.12.040.....	12
1. The Second Cause of Action Fails to State a Claim Because The Ordinance Claimed to Have Been Violated Was Already Repealed.....	13
2. To The Extent the Second Cause of Action is Attempting to Assert a Constitutional Claim, It is Fatally Uncertain.....	14

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

C.	DEMURRER TO THE THIRD CAUSE OF ACTION.....	14
D.	THE DEFICIENCIES IN PLAINTIFF’S COMPLAINT ARE INCURABLE, AND THE COURT SHOULD DENY LEAVE TO AMEND	14
V.	CONCLUSION.....	15

TABLE OF AUTHORITIES

Page(s)

State Cases

<i>Ball v. FleetBoston Fin'l Corporation</i> (2008) 164 Cal. App. 4th 794	14
<i>Blank v. Kirwan</i> (1985) 39 Cal.3d 311	2
<i>Committee of Seven Thousand v. Superior Court</i> (1988) 45 Cal.3d 491	10
<i>County of Riverside v. Superior Court</i> (2003) 30 Cal.4th 278	6, 9
<i>County of Sonoma v. Superior Court</i> (2009) 173 Cal.App.4th 332	7, 9
<i>Curcini v. County of Alameda</i> (2008) 164 Cal.App.4th 629	6
<i>DeVita v. City of Napa</i> (1995) 9 Cal.4th 763	6
<i>Dimon v. County of Los Angeles</i> (2008) 166 Cal.App.4th 1276	6
<i>Donabedian v. Mercury Insurance Company</i> (2004) 116 Cal.App.4th 968,	2
<i>Fisher v. San Pedro Peninsula Hospital</i> (1989) 214 Cal.App.3d 590	2
<i>Frantz v. Blackwell</i> (1987) 189 Cal.App.3d 91	2
<i>Gates v. Blakemore</i> (2019) 39 Cal.App.5th 32	6, 9
<i>International Brotherhood of Elec. Workers v. City of Gridley</i> (1983) 34 Cal.3d 191	10
<i>Jahr v. Casebeer</i> (1999) 70 Cal.App.4th 1250	8
<i>Jenkins v. JP Morgan Chase Bank, N.A.</i> (2013) 216 Cal.App.4th 497	15
<i>Lawrence v. Bank of America</i> (1985) 163 Cal.App.3d 431	15

1	<i>Leshar Communications, Inc. v. City of Walnut Creek</i>	
2	(1990) 52 Cal.3d 531	11
3	<i>McKenney v. Purepac Pharmaceutical Company</i>	
4	(2008) 167 Cal.App.4th 72	2
5	<i>Meldrim v. Board of Supervisors of Contra Costa County</i>	
6	(1976) 57 Cal. App.3d 341	8, 12
7	<i>Moran v. Prime Healthcare Management, Inc.</i>	
8	(2016) 3 Cal. App.5th 1131,	2
9	<i>People ex rel. Seal Beach Police Officers Assn. v. City of Seal Beach</i>	
10	(1984) 36 Cal.3d 591	10
11	<i>Professional Engineers in California Government v. Kempton</i>	
12	(2007) 40 Cal.4th 1016	11
13	<i>San Leandro Police Officers Association v. City of San Leandro</i>	
14	(1976) 55 Cal.App.3d 553	10
15	<i>Schonfeldt v. State of California</i>	
16	(1998) 61 Cal.App.4th 1462	15
17	<i>Totten v. Board of Supervisors</i>	
18	(2006) 139 Cal.App.4th 826	9
19	<i>Voters for Responsible Ret. v. Board of Supervisors</i>	
20	(1994) 8 Cal.4th 765	10
21	<u>State Statutes</u>	
22	California Constitution, Article XI, section 1, subdivision (b).....	6, 7
23	California Constitution, Article XI, section 3, subdivision (a).....	6, 11, 12
24	California Constution, Article XI, section 4, subdivision (f).....	6
25	Code of Civil Procedure, section 430.10, subdivision (e)	2
26	Code of Civil Procedure, section 430.10, subdivision (f).....	14
27	Elections Code, Section 9125	12
28		

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On December 21, 2021, Petitioners Placer County Deputy Sheriffs' Association ("DSA")
4 and Noah Frederito ("Frederito") (collectively, "Petitioners") filed a Petition for Writ of Mandate
5 and Complaint for Declaratory Relief against Respondent County of Placer ("County" or
6 "Respondent".) On January 21, 2022, Petitioners filed an Amended Petition. The Petition, as
7 amended, sets forth three causes of action: (1) Violation of Elections Code § 9125; (2) Violation
8 of Placer County Code § 3.12.040; and (3) Request for Declaratory Relief.

9 Petitioners' claims arise from the County's amendment of Section 3.12.040 and a
10 subsequent ordinance raising wages for deputy sheriffs to 4% above the previous year. Petitioners
11 argue that Section 3.12.040 codifies a 1976 local ballot initiative ("Measure F"), which purports
12 to govern salaries for Placer County Sheriff's Office employees, and that the County therefore
13 violated the Elections Code by amending the ordinance without prior voter approval. Petitioners
14 also assert a derivative claim – on the assumption that the amendment to Section 3.12.040 was
15 unlawful and void – that when the Board raised deputy sheriffs' salaries beyond what the
16 Measure F formula would provide, the Board thereby violated Section 3.12.040.

17 The legal questions presented in this case can be resolved by a straightforward application
18 of governing legal authorities. Under both the state constitution and state law, Measure F has been
19 void and invalid since its adoption because it unlawfully deprives the County Board of
20 Supervisors of its constitutional authority to set employee compensation, unlawfully delegates the
21 Board's salary-setting authority to other agencies, and deprives *both* parties of their right – and
22 duty – under the Meyers-Milias-Brown Act ("MMBA") to negotiate over employee salaries.

23 Therefore, the County had the legal authority to amend the ordinance codifying Measure F
24 without voter approval and enact changes to employee compensation. Even assuming the County
25 did need voter approval to repeal Measure F, that requirement was met in 1980 when Placer
26 County voters adopted a county charter containing a superseding grant of salary-setting authority
27 to the Board of Supervisors. For these reasons, as set forth in more detail below, Petitioners'
28 claims fail as a matter of law, and the demurrer must be sustained without leave to amend.

II. STANDARD OF REVIEW

A demurrer challenges defects that appear on the face of the complaint, or from matters subject to judicial notice. (*See Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, 998.) The “face of the complaint” includes matters shown in exhibits attached to the complaint and incorporated by reference. (*Frantz v. Blackwell* (1987) 189 Cal.App.3d 91, 94.) This primary evidence trumps inconsistent allegations in the complaint. (*Moran v. Prime Healthcare Mgmt., Inc.* (2016) 3 Cal. App.5th 1131, 1145-1146.) While a demurrer admits all material facts, it does not admit contentions, deductions, or conclusions of law. (*Fisher v. San Pedro Peninsula Hosp.* (1989) 214 Cal.App.3d 590, 604.)

A demurrer is appropriate when a complaint does not state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10, subd. (e).) A demurrer is also appropriate when a cause of action is uncertain, ambiguous, or unintelligible. (Code Civ. Proc., § 430.10, subd. (e).) A demurrer is also appropriate when the complaint discloses a defense that bars the plaintiff’s recovery. (*McKenney v. Purepac Pharmaceutical Co.* (2008) 167 Cal.App.4th 72, 78-79.)

III. SUMMARY OF RELEVANT FACTS¹

A. THE PARTIES

Petitioner DSA is the exclusive labor representative for County employees in the classification of Sheriff’s Deputy. (Petition ¶ 1.) Petitioner Frederito is employed by the County as a Deputy Sheriff, and has held that position since 2013; Petitioner Frederito is also the President of the DSA, a position he has held since 2018. (Petition ¶ 2.) Respondent is the County of Placer, a political subdivision and public agency organized under the laws of the State of California and – since 1980 – the Charter of the County of Placer. (Petition ¶¶ 3, 7.)

///

///

///

¹ The Petition contains several pages of allegations that are legally irrelevant. (See Motion to Strike, filed concurrently.) Several assertions in the Petition are also inconsistent with the primary documents attached as Exhibits or with matters subject to judicial notice. The following is a summary of facts actually relevant to the causes of action.

**B. IN 1976, PLACER COUNTY VOTERS APPROVE AN ORDINANCE THAT
SET A FIXED FORMULA FOR SHERIFF DEPUTIES' SALARIES**

On November 2, 1976, the voters of Placer County voted to approve a local ballot initiative known as "Measure F."² (Petition ¶ 5; Respondent's Request for Judicial Notice ("RJN"), Exhibits A-C.) As it appeared on the ballot, Measure F read as follows:³

The Board of Supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County Sheriff's Office, El Dorado County Sheriff's Office and Sacramento County Sheriff's Office for each class of position employed by said agencies.

Effective January 1, 1977, and effective January 1st of each year thereafter the Board of Supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first pay period following January shall fix the average salary for each class of position in the Placer County Sheriff's Office at a level equal to the average of the salaries for the comparable positions in the Nevada County Sheriff's Office, El Dorado County Sheriff's Office and the Sacramento County Sheriff's Office.

As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:

Undersheriff	Inspector	Corporal
Captain	Sergeant	Deputy
Lieutenant		

The provisions of this ordinance shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are not elected by popular vote.

(It is proposed that the above ordinance be adopted by the Electors to insure that the employees of the Placer County Sheriff's Department shall have salaries comparable to the other competing law enforcement agencies surrounding Placer County.)

(RJN, Exhibit B; *see also* Petition ¶¶ 5-6.)

After the election, the County designated the initiative language as Section 14.3005 of the Placer County Code. Section 14.3005 was later renumbered and codified as Section 3.12.040 when the entire County Code was republished in 2000.⁴

///

² The Petition incorrectly states that Measure F was passed in 1977. (Petition ¶ 5.)

³ The 1976 ballot language contained several non-substantive typographic errors, which have been corrected here.

⁴ The official County Code and the County Charter are published online at <https://qcode.us/codes/placercounty/>.

1 **C. VOTERS ENACT THE PLACER COUNTY CHARTER IN 1980, GIVING**
2 **SALARY-SETTING AUTHORITY TO THE BOARD OF SUPERVISORS**

3 In 1980, the voters of Placer County enacted the Placer County Charter. (Petition ¶ 7;
4 RJN, Exhibits D-E.) The Charter provides in relevant part as follows:

5 **Section 102 Powers [of the County].**

6 The county has and shall have all the powers which are now or may hereafter
7 be provided by the Constitution and the laws of the State of California and by
8 this Charter.

9 **Section 103 Exercise of Powers.**

10 The powers mentioned in the preceding section shall be exercised only by a
11 Board of Supervisors or through agents and officers acting under its authority
12 or authority conferred by law.

13 **Section 301 [Powers And Duties Of The Board Of Supervisors] In General.**

14 (a) The Board shall have all the jurisdiction and authority which now or
15 which may hereafter be granted by the Constitution and the laws of the State
16 of California or by this Charter.

17 (b) It is the purpose of this Charter to allow the people of Placer County to
18 have self government and home rule; silence in the Charter on a given subject
19 does not relegate the county to compliance with the general law.

20 **Section 302 Duties**⁵

21 The Board shall

22 ...
23 (b) Provide, by ordinance for the number of assistants, deputies, clerks, and
24 other persons to be employed from time to time in the several offices and
25 institutions of the county, and for their compensation.

26 ...
27 (d) Adopt the annual budget of the county.

28 **Section 604 Continuation of Laws in Effect.**⁶

 All laws of the county in effect at the effective date of this Charter shall
 continue in effect according to their terms unless contrary to the provisions of
 this Charter, or until repealed or modified pursuant to the authority of this
 Charter or the general law.

 ///

 ///

 ///

⁵ The Petition incorrectly cites this as Section 302(b) of the Placer County Code. (Petition at ¶ 7.)

⁶ The Petition incorrectly cites this as Section 603. (Petition at ¶ 8.)

**D. THE BOARD OF SUPERVISORS VOTE TO REPEAL COUNTY CODE
SECTION 3.12.040 AND CHANGE COMPENSATION FOR DEPUTIES**

On September 14, 2021, the Board of Supervisors held a public hearing over a proposed ordinance that, among other things, would amend County Code section 3.12.040. (Petition ¶ 64, Exhibit J.) At the same hearing, the Board also considered a separate ordinance which, if passed, would enact a salary increase for County employees in the Deputy Sheriffs bargaining unit above what the Measure F formula would provide. (Petition ¶ 64, Exhibit J.)

At the following Board of Supervisors meeting, on September 28, 2021, the Placer County Board of Supervisors duly passed both ordinances. (Petition ¶¶ 66-67.) Ordinance 6014-B amended County Code section 3.12.040, effective immediately, to read as follows:

3.12.040 Salaries – All represented employees.

Pursuant to Article XI, Sections 1, 3, and 4 of the California Constitution, Sections 302 and 604 of the Placer County Charter, adopted by the electorate on November 4, 1980, and California Government Code Sections 3504 and 3505, the Board of Supervisors shall negotiate and set compensation for all employees represented by PPEO, PCLEMA, and DSA.⁷

(Petition ¶ 67, Exhibit I.)

Ordinance 6015-B implemented salary and benefits adjustments, providing a 1.09% wage increase for sheriffs' deputies and a 1.41% wage increase for sergeants. (Petition ¶ 66, Exhibit H.) This brought the total salary increase for 2021 to 4%. (Petition, Exhibit J, page "64".)

IV. LEGAL ARGUMENT

**A. DEMURRER TO THE FIRST CAUSE OF ACTION, ALLEGING
VIOLATION OF ELECTIONS CODE SECTION 9125**

Petitioners assert as their first cause of action that by adopting Ordinance 6104-B, which amended County Code section 3.12.040, the County unlawfully repealed Measure F without voter approval pursuant to Elections Code section 9125. (Petition ¶¶ 76-80.) For the reasons discussed below, this purported cause of action fails as a matter of law for the simple reason that Measure F has never been legally valid and enforceable in the first place.

⁷ PPEO and PCLEMA refer to unions representing other County bargaining units not parties to this action.

1 **1. The County Board of Supervisors Has Exclusive Authority to Set**
2 **Employee Compensation.**

3 The California Constitution grants the governing bodies of counties the exclusive
4 authority to provide compensation for its employees. Article XI, Section 1(b) of the California
5 Constitution provides: “The governing body [of the County] shall provide for the number,
6 compensation, tenure, and appointment of employees.” (Cal. Const., art. XI, § 1(b).) Under this
7 constitutional provision, a county’s right to set compensation for its employees trumps conflicting
8 state laws. (*Curcini v. County of Alameda* (2008) 164 Cal.App.4th 629, 640; *Dimon v. County of*
9 *Los Angeles* (2008) 166 Cal.App.4th 1276, 1290, as modified (Sept. 30, 2008).) When a
10 California county adopts a charter, additional constitutional provisions similarly reserve
11 compensation-setting authority for the County’s governing body. (Cal. Const., art. XI, §§ 3(a),
12 4(f).) However, Article XI, Section 1’s specific assignment of salary-setting authority to the
13 Board of Supervisors applies to all counties, not just charter counties.⁸ (*Curcini, supra*, 164
14 Cal.App.4th at 640 [citing *County of Riverside v. Superior Court* (2003) 30 Cal.4th 278, 285].)

15 Although the local electorate’s constitutional right to initiative and referendum are
16 generally coextensive with the legislative power of the local governing body, “[a]uthority over
17 certain matters, however, is ‘delegated exclusively to the County’s governing body, precluding
18 the right to initiative and referendum.’ ” (*Gates v. Blakemore* (2019) 39 Cal.App.5th 32, 38,
19 [citing *DeVita v. City of Napa* (1995) 9 Cal.4th 763, 776].)

20 Because of the Constitution’s very specific grant of authority, the California Supreme
21 Court has held that a County cannot be compelled to delegate this authority. For example,
22 in *County of Riverside v. Superior Court*, the California Supreme Court struck down legislation
23 requiring local agencies to submit economic issues to binding arbitration, noting that “[t]he
24 constitutional language is quite clear and quite specific: the *county*, not the state, not someone
25 else, shall provide for the compensation of its employees.” (*County of Riverside, supra*, 30
26 Cal.4th at 285 [emphasis in original].) The Court held that state law can regulate the *process* for
27 fixing wages, but the statute in question was substantive because it would permit a body other

28 ⁸ Although Placer County has been a charter county since 1980, it was a general law county in 1976.

1 than the county's governing body to set wages. (*Id.* at 289.) Similarly, the Court held that while a
2 county can delegate *its own* salary-setting power, the constitution's specific grant of authority to
3 the governing body was a clear limitation on the state's law-making authority.⁹ (*Id.* at 289-90.)

4 Subsequently, in *County of Sonoma v. Superior Court* (2009) 173 Cal.App.4th 332, the
5 Court of Appeal struck down an amended version of the same arbitration statute struck down in
6 *County of Riverside*. The amended provision would have allowed the Board of Supervisors to
7 reject an arbitration decision by a unanimous vote, but absent a unanimous vote of the board, the
8 arbitration decision would be final and binding. (*County of Sonoma, supra*, 173 Cal. App.4th at
9 333-34.) But even this amended statute failed constitutional scrutiny because it reduced the
10 Board's authority to a mere veto power, meaning the arbitrator's decision would become binding
11 even with no legislative action at all. (*Id.* at 347-48.) Accordingly, the court held that the statute
12 substantially impinged on the Board's authority to set compensation for County employees, and
13 therefore conflicted with the Constitution's reservation of this power to local governments.

14 **2. Measure F Unlawfully Deprives the Board of its Constitutional**
15 **Authority to Set Wages and Delegates It to Neighboring Counties.**

16 As outlined above, the language of Measure F as it appeared on the ballot in 1976 would
17 direct the County Board of Supervisors to annually "fix the average salary for each class of
18 position in the Placer County Sheriff's Office at a level equal to the average of the salaries for the
19 comparable positions in the Nevada County Sheriff's Office, El Dorado County Sheriff's Office
20 and the Sacramento County Sheriff's Office." In other words, Measure F would "fix" or set the
21 salary of County employees with reference to a specific extrinsic fact: the average compensation
22 level at neighboring agencies whose terms of employment are outside the control of the Board of
23 Supervisors, leaving no discretion to the Board of Supervisors. Accordingly, Measure F
24 impermissibly infringes on the Board of Supervisors' constitutional authority to provide for the
25 compensation of County employees. (Cal. Const., art. XI, § 1, subd. (b).)

26 ///

27 ⁹ *County of Riverside* addressed an act of the Legislature, but it is well-established that the people's rights of
28 initiative and referendum are aspects of the overall law-making authority of the state, alongside the legislative power
vested in the Legislature. (*County of Riverside, supra*, 30 Cal.4th at 284.)

1 *Meldrim v. Board of Supervisors of Contra Costa County* (1976) 57 Cal. App.3d 341
2 (“*Meldrim*”) is particularly instructive on the facts of this case. In *Meldrim*, a taxpayer brought
3 suit to invalidate a 1974 ordinance passed by the Contra Costa County Board of Supervisors that
4 set salaries for members of the Board at \$14,282.80 per year. (*Id.* at 343.) The taxpayer argued
5 that the 1974 ordinance unlawfully repealed a 1972 ballot initiative that fixed the salaries at
6 \$13,200 per year. (*Ibid.*) The trial judge hearing the case ruled that the 1972 initiative itself was
7 unconstitutional and that the 1974 ordinance was therefore valid; the Court of Appeal affirmed
8 the judgment. (*Ibid.*) Specifically, the Court of Appeal in *Meldrim* held that the California
9 Constitution, Article XI, Section 1, did not simply add the authority to set salaries to the general
10 powers of counties, “but, instead, it specifically gave that power to the governing bodies
11 themselves.” (*Id.* at 343-44.) The court explained that “[i]f the [1972] initiative were held to be
12 applicable, the voters could prescribe the compensation, in contradiction to the provision that the
13 governing body shall do so.” (*Id.* at 344 [emphasis in original].)

14 *Jahr v. Casebeer* (1999) 70 Cal.App.4th 1250 (“*Jahr*”) is similarly instructive. In *Jahr*,
15 the County Counsel for Shasta County sought a judicial declaration that a proposed initiative –
16 which would directly amend the County ordinance setting compensation for members of the
17 Board of Supervisors – was unconstitutional. Specifically, the initiative at issue would require the
18 Board to set compensation for its members – both immediately and annually thereafter – at a level
19 not to exceed the base pay of a member of the Redding City Council. (*Jahr, supra*, 70 Cal.App.4th
20 at 1253.) The Court of Appeal reaffirmed the reasoning from the *Meldrim* decision, and held that
21 Article XI, Section 1, unambiguously gives compensation-setting authority solely to the
22 “governing body,” meaning the Board of Supervisors, and not the voters. (*Id.* at 1254-55.)

23 The similarity between Measure F and the proposed ballot initiative in *Jahr* is particularly
24 striking: Where the initiative challenged in *Meldrim* directly set compensation at a specific
25 amount, the initiative in *Jahr* would instead have pegged compensation to a specific external
26 benchmark, with annual adjustments. This structure is nearly identical to the Measure F formula,
27 the sole difference being that Measure F would benchmark compensation for each covered
28 position to an average of three neighboring agencies’ wages rather than to a single data point.

1 Although both of *Jahr* and *Meldrim* concerned salaries for members of the Board of
2 Supervisors, the same reasoning applies to the Board’s authority to set employee wages. The very
3 same constitutional provision – Article XI, Section 1, subdivision (b) – specifically assigns both
4 powers to the “governing body” of each county; not the “county” or the “voters.” Where authority
5 is delegated exclusively to the governing body, this precludes the right to legislate by initiative.
6 (*Gates, supra*, 39 Cal.App.5th at 38). And as discussed above, the courts have repeatedly struck
7 down attempts to delegate away the governing body’s salary-setting authority. (*County of*
8 *Riverside, supra*, 30 Cal.4th at 289; *County of Sonoma, supra*, 173 Cal.App.4th at 347-48.)

9 Just like the 1972 ballot initiative at issue in *Meldrim* and the proposed initiative in *Jahr*,
10 Measure F would deprive the Board of Supervisors of its constitutional salary-setting authority by
11 fixing compensation to a specific benchmark outside the Board’s control. Similar to the
12 arbitration statute struck down (twice) in *County of Riverside* and *County of Sonoma*, Measure F
13 would unlawfully delegate the authority to determine wages for Placer County employees to a
14 body – or three bodies, in this case – other than the governing body of Placer County.

15 *Totten v. Board of Supervisors* (2006) 139 Cal.App.4th 826, provides analogous support.
16 In that case, the Court of Appeal ruled that an initiative ordinance establishing a minimum annual
17 budget for Ventura County’s public safety agencies was constitutionally invalid. The court held
18 that statutory language expressly delegates authority over the budget of general law counties to
19 each county’s board of supervisors, giving rise to a strong inference that the Legislature intended
20 to preclude the electorate from exercising authority over the adoption of a County budget, and
21 noting that applying the initiative process to county public safety budgets would seriously impair
22 the board’s essential ability to manage the county’s financial affairs. (*Totten, supra*, 139
23 Cal.App.4th at 839-40.) Although Measure F does not directly fix the County’s public safety
24 budget, it nonetheless substantially restricts the Board’s ability to determine the Sheriff’s Office
25 budget by taking the largest determining factor – deputy salaries – out of the Board’s hands.

26 For all of the reasons discussed above, Measure F is unconstitutional, void, unenforceable,
27 and without legal effect. Given that *Meldrim* was decided before Measure F even appeared on the
28 ballot, it is clear that Measure F was in fact invalid from the very beginning.

1 **3. Measure F is Unenforceable Because It Is Preempted by the MMBA.**

2 Independent of the state constitution, Measure F is also void and unenforceable because it
3 directly conflicts with the MMBA. It is well established that acts of the Legislature can preclude
4 the right of initiative. “In matters of statewide concern, the state may if it chooses preempt the
5 entire field to the exclusion of all local control. If the state chooses instead to grant some measure
6 of local control and autonomy, it has authority to impose procedural restrictions on the exercise of
7 the power granted, including the authority to bar the exercise of the initiative and referendum.”
8 (*Committee of Seven Thousand v. Superior Court* (1988) 45 Cal.3d 491, 511.)

9 In analyzing the applicability of the MMBA, the Supreme Court of California has
10 repeatedly held that although local agencies have *substantive* authority over the amount paid to
11 employees, the *procedures* set by the MMBA are a matter of statewide concern and preempt
12 contradictory local procedures. (*Voters for Responsible Ret. v. Bd. of Supervisors* (1994) 8
13 Cal.4th 765, 781 [citing *Int’l Brotherhood of Elec. Workers v. City of Gridley* (1983) 34 Cal.3d
14 191, 202]; *People ex rel. Seal Beach Police Officers Assn. v. City of Seal Beach* (1984) 36 Cal.3d
15 591, 601.) Similarly, in *San Leandro Police Officers Assn. v. City of San Leandro* (1976) 55
16 Cal.App.3d 553, 557, the Court of Appeal held that although fixing compensation is a municipal
17 function, “local legislation may not conflict with statutes such as MMBA which are intended to
18 regulate the entire field of labor relations of affected public employees throughout the state.”
19 (*San Leandro Police Officers Assn., supra*, 55 Cal.App.3d at 557.)

20 Thus, any local ordinances relating to the setting of employee salaries must preserve the
21 “centerpiece” of the MMBA, which “mandates that the governing body undertake negotiations
22 with employee representatives ... with the objective of reaching agreement on matters within the
23 scope of representation.” (*Voters for Responsible Ret., supra*, 8 Cal.4th at 781.) In other words,
24 the MMBA preempts any local procedures which restrict or foreclose salary negotiation.

25 As discussed above, and as outlined in the Petition, Measure F would require the County
26 to fix wages for Sheriff’s Office employees at a level exactly equal to the average wage for
27 comparable positions in neighboring jurisdiction. This formula leaves no room for *either* party to
28 negotiate over salary. If valid, Measure F would prohibit the parties from implementing wage

1 increases that deviate in any way from the formula set by the ballot initiative, even if the parties
2 had a negotiated agreement regarding the increase. Moreover, by prescribing employee wages –
3 the central portion of employees’ total negotiable compensation and benefits package – Measure
4 F would also severely curtail the range of possible compromises that are economically feasible.
5 Thus, Measure F directly conflicts with the MMBA’s directive for the County to negotiate
6 compensation, and it is therefore preempted by state law.

7 **4. Measure F was Superseded by the County Charter in 1980.**

8 For each of the reasons discussed above, Measure F has been invalid and unenforceable
9 since the moment it was enacted. But assuming (for the sake of argument only) that some aspect
10 of Measure F was initially enforceable, it was legally superseded as of 1980 when the voters of
11 Placer County enacted a County Charter.

12 Upon the enactment of the Placer County Charter, any preexisting laws remained in effect,
13 “unless contrary to the provisions of this charter.” (Placer County Charter, § 604; *see also* Cal.
14 Const. art. XI, § 3, subd. (a) [“County charters adopted pursuant to this section shall supersede
15 any existing charter and all laws inconsistent therewith.”].) Section 103 of the Charter provides
16 that the powers conferred on the County by the constitution, state law, and the charter itself “*shall*
17 *be exercised only by a Board of Supervisors* or through agents and officers acting under its
18 authority or authority conferred by law.” (Emphasis added.) Section 302 of the Charter
19 specifically gives the Board of Supervisors authority to provide for the compensation of County
20 employees. Absent ambiguity, the court must “presume that the voters intend[ed] the meaning
21 apparent on the face of an initiative measure, and the court may not add to the statute or rewrite it
22 to conform to an assumed intent that is not apparent in its language.” (*Professional Engineers in*
23 *California Government v. Kempton* (2007) 40 Cal.4th 1016, 1037, *citing Leshar Communications,*
24 *Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 543.)

25 There is no indication in the Charter that this grant of authority was intended to vest the
26 Board of Supervisors with only a limited right to make compensation decisions, subject to partial
27 exceptions for specific employee classifications; to the contrary, the Charter’s language is a broad
28 and unambiguous grant of authority to the Board to “provide, by ordinance, for the number of

1 assistants, *deputies*, clerks, and other persons to be employed from time to time in the several
2 offices and institutions of the county, *and for their compensation.*” (Placer County Charter, § 302,
3 subd. (b) [emphasis added].) Thus, to the extent Measure F had any legal effect in the first place,
4 its salary-setting formula was inconsistent with the 1980 charter enactment’s broad grant of
5 salary-setting authority to the Board of Supervisors. Between these two inconsistent provisions,
6 the Charter takes precedence. (Placer County Charter, § 604; Cal. Const. art. XI, § 3, subd. (a).)

7 **5. Without a Valid Initiative, There Can Be No Violation of Section 9125.**

8 Petitioners’ first cause of action is for an alleged violation of Elections Code section 9125.
9 That statute provides, in relevant part, that “[N]o ordinance proposed by initiative petition and
10 adopted either by the board of supervisors without submission to the voters or adopted by the
11 voters shall be repealed or amended except by a vote of the people, unless provision is otherwise
12 made in the original ordinance.” However, if the original voter-enacted ordinance was itself
13 invalid, no voter approval is required to repeal or amend it. (See *Meldrim, supra*, 57 Cal.App.3d
14 at 343 [ruling on a cause of action under former Elections Code section 3720, predecessor to the
15 current Section 9125].) A *prima facie* cause of action under Elections Code Section 9125 must
16 therefore allege that the respondent, without submission to the voters, repealed or amended a
17 *valid* ballot initiative. The Petition fails to meet this burden.

18 To the extent there was any valid and enforceable aspect of Measure F, the voters of
19 Placer County enacted a superseding grant of authority to the Board of Supervisors when they
20 approved the Placer County Charter in 1980. Accordingly, when the Board of Supervisors
21 amended Section 3.12.040 of the Placer County Code, the Board’s action amounted to nothing
22 more than the repeal of a “dead letter” ordinance. Because this conclusion follows from a
23 straightforward application of existing law to a simple set of undisputed facts, Respondent’s
24 demurrer to the first cause of action must be sustained without leave to amend.

25 **B. DEMURRER TO THE SECOND CAUSE OF ACTION, ALLEGING**
26 **VIOLATION OF PLACER COUNTY CODE SECTION 3.12.040**

27 As the Second Cause of Action, Petitioners allege a violation of County Code section
28 3.12.040. (Petition ¶¶ 81-86.) Specifically, Petitioners assert that Section 3.12.040 and, somehow,

the United States and California Constitutions, “create a clear, present, and ministerial duty under the law for Respondent to ‘fix the average salary for each class of position in the Placer County sheriff’s office at a level equal to the average of the salaries for the comparable positions in the [sheriff’s offices of the neighboring counties].’ ” (Petition ¶ 84.) Petitioners further assert that the County “fail[ed] to abide by Measure F / Section 3.12.040 in determining deputies’ salaries following the imposition of their December 8 offer on September 14, 2021.” (Petition ¶ 86.) As with the First Cause of Action, even assuming that all facts alleged are true, the Second Cause of Action still fails to allege facts sufficient to establish a valid claim as a matter of law.

1. The Second Cause of Action Fails to State a Claim Because The Ordinance Claimed to Have Been Violated Was Already Repealed.

The crux of Petitioners’ claim appears to be that the County’s imposition of new compensation terms deviated from the Measure F formula, which was previously mirrored in County Code section 3.12.040. This claim fails as a matter of law because it is entirely dependent on that prior version of the ordinance still being in effect at the time the County enacted a change to deputy sheriffs’ compensation; and as discussed at length above, the County lawfully amended Section 3.12.040 to instead read, in full, as follows:

3.12.040 Salaries – All represented employees.

Pursuant to Article XI, Sections 1, 3, and 4 of the California Constitution, Sections 302 and 604 of the Placer County Charter, adopted by the electorate on November 4, 1980, and California Government Code Sections 3504 and 3505, the Board of Supervisors shall negotiate and set compensation for all employees represented by PPEO, PCLEMA, and DSA.

This is a broad grant of authority to the Board to set wages for County employees in all three represented bargaining units – subject to collective bargaining. The County’s act of raising wages for deputy sheriffs was plainly within the scope of its authority under the amended ordinance.

Notably, the County voted to amend Section 3.12.040 before it took action to change deputies’ salaries. As such, the ordinance the Petitioners claim the County violated had already been repealed and replaced by the time the County supposedly violated it.

In short, the Second Cause of Action is entirely derivative of the first; it fails on the same grounds. For the reasons explained above, the County acted lawfully in repealing and replacing

Section 3.12.040. Because the ordinance was lawfully amended, the County's actions in raising wages were also lawful. Because the Second Cause of Action depends entirely on the prior version of Section 3.12.040 still being legally effective – when indeed it never was – the Second Cause of Action fails as a matter of law, and the County's demurrer must be sustained.

2. To The Extent the Second Cause of Action is Attempting to Assert a Constitutional Claim, It is Fatally Uncertain.

The Second Cause of Action states – without any citation to authority or explanation – that the United States and California Constitutions (along with Placer County Code section 3.12.040) “create a clear, present, and ministerial duty under the law” for the County to set deputy sheriffs’ compensation according to the Measure F formula. (Petition ¶ 84.) To the extent the Petition intends to state some manner of constitutional claim, whether as a separate cause of action, or as a legal theory by which Petitioner is entitled to relief, such cause of action or claim to relief is fatally uncertain and subject to demurrer because the City cannot reasonably ascertain what it is supposed to respond to. (Code Civ. Proc., § 430.10, subd. (f); *see Williams v. Beechnut Nutrition Corp.* (1986) 185 Cal.App.3d 135, 139 fn. 2.)

C. DEMURRER TO THE THIRD CAUSE OF ACTION

A declaratory relief claim is subject to general demurrer where it is “wholly derivative” of a substantive claim that is invalid as a matter of law. (*Ball v. FleetBoston Fin'l Corp.* (2008) 164 Cal. App. 4th 794, 800.) Here, Petitioners’ claim is wholly derivative of their other two causes of action: No additional facts are alleged, no independent legal questions are raised; Petitioners merely seek judicial declarations adjudicating their First and Second causes of action. And for each and all of the reasons set forth above, Petitioner’s substantive claims are invalid as a matter of law. Accordingly, the County’s demurrer to the Third Cause of Action must also be sustained.

D. THE DEFICIENCIES IN PLAINTIFF’S COMPLAINT ARE INCURABLE, AND THE COURT SHOULD DENY LEAVE TO AMEND

Although courts typically take a liberal view toward amending a complaint where there is a reasonable possibility of curing its defects, it is well established that if the facts are not in dispute and no liability exists under substantive law, leave to amend should be denied. (*Jenkins v.*

1 *JP Morgan Chase Bank, N.A.* (2013) 216 Cal.App.4th 497, 535; *Lawrence v. Bank of America*
2 (1985) 163 Cal.App.3d 431, 436; *Schonfeldt v. State of Calif.* (1998) 61 Cal.App.4th 1462, 1465.)

3 This case presents a simple set of facts that clearly demonstrate Petitioners have no claim
4 for relief as a matter of law. Petitioners allege that in 1976, the voters of Placer County enacted a
5 ballot measure that, by its terms, would prescribe wages for Placer County Sheriff's Office
6 employees in perpetuity, without room for discretion or negotiation. (Petition ¶¶ 5-6.) This ballot
7 measure was void and unenforceable from the start because (1) it would deprive the Board of
8 Supervisors of its constitutional authority to set employee compensation, (2) it would compel the
9 County to pay salary increases without a negotiated agreement based on entirely external factors,
10 and (3) it would deprive both the County and the DSA of their statutory rights to negotiate
11 compensation. If there was anything remaining of Measure F, it was superseded in 1980 by the
12 inconsistent grant of wage-setting authority to the Board of Supervisors in the County Charter.

13 Petitioners' claims depend entirely on the premise that Measure F was valid and
14 enforceable in 2021. For the reasons explained above, it never was; without a valid ballot
15 initiative governing salaries for Deputy Sheriffs, their claims cannot survive demurrer.

16 All relevant facts in this matter are either set forth in the Petition, or are not reasonably in
17 dispute and subject to judicial notice. Because Petitioners' claims fail as a matter of law, the
18 defects in the Petition cannot be cured by amendment, and leave to amend must be denied.

19 **V. CONCLUSION**

20 For all the foregoing reasons, the Court should sustain Respondent's demurrer, in its
21 entirety, and without leave to amend.

22 Dated: February 2, 2022

LIEBERT CASSIDY WHITMORE

23
24 By: 

25 Michael D. Youril
26 Lars T. Reed
27 Attorneys for Respondent COUNTY OF PLACER
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF FRESNO

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is: **5250 North Palm Ave, Suite 310, Fresno, California 93704.**

On **February 2, 2022**, I served the foregoing document(s) described as **RESPONDENT COUNTY OF PLACER'S NOTICE OF DEMURRER AND DEMURRER TO PETITIONERS PLACER COUNTY DEPUTY SHERIFFS' ASSOCIATION AND NOAH FREDERITO'S AMENDED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF** in the manner checked below on all interested parties in this

action addressed as follows:

David E. Mastagni
Taylor Davies-Mahaffey
Mastagni Holstedt, APC
1912 I Street
Sacramento, California 95811
email: davidm@mastagni.com
tdavies-mahaffey@mastagni.com

- ☒ **(BY U.S. MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Fresno, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on **February 2, 2022**, at Fresno, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Constance Dewey

Exhibit 4

By: Laurel L Sanders
Deputy Clerk

Michael D. Youril, Bar No. 285591
myouril@lcwlegal.com
Lars T. Reed, Bar No. 318807
lreed@lcwlegal.com
LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
400 Capitol Mall, Suite 1260
Sacramento, CA 95814
Telephone: 916-584-7000
Facsimile: 916-584-7083

Attorneys for Respondent COUNTY OF PLACER

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF PLACER

**PLACER COUNTY DEPUTY
SHERIFFS' ASSOCIATION and NOAH
FREDERITO,**

Petitioners,

v.

COUNTY OF PLACER,

Respondent.

Case No.: S-CV-0047770

Complaint Filed: December 21, 2021

**RESPONDENT'S NOTICE OF MOTION AND
MOTION TO STRIKE PORTIONS OF
PETITIONERS' AMENDED VERIFIED
PETITION FOR WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY RELIEF**

Date: March 3, 2022
Time: 8:30 a.m.
Dept.: 42

(*Exempt from filing fees pursuant to Gov.
Code, § 6103.)

TO PETITIONERS AND THEIR ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that on March 3, 2022, at 8:30 a.m., or as soon thereafter as the matter may be heard in Department 42 of the above-entitled Court, located at 10820 Justice Center Drive, Roseville, California, Respondent County of Placer (hereinafter "Respondent" or "County") will and hereby does move to strike parts of the Amended Verified Petition for Writ of Mandate and Complaint for Declaratory Relief ("Petition") filed by Petitioners Placer County Deputy Sheriffs' Association (hereinafter "DSA") and Noah Frederito (collectively hereinafter

1 “Petitioners”) on the grounds set forth in the attached Motion to Strike and Memorandum of
2 Points and Authorities.

3 This Motion to Strike is based on this Notice; the Memorandum of Points and Authorities;
4 the Declaration of Lars T. Reed (“Reed Decl.”) and Request for Judicial Notice filed and served
5 concurrently herewith; all pleadings, papers, and records on file herein; and any such further
6 matters on evidence that may be presented at or before the hearing.

7 **Statutory Meet & Confer**

8 Pursuant to Code of Civil Procedure section 435.5, and Local Rule 20.2.1, counsel for the
9 parties have met and conferred by telephone regarding the grounds for the County’s Motion to
10 Strike. The parties were not able reach an agreement resolving the objections raised in the
11 County’s Motion to Strike. (Reed Decl. at ¶¶ 3-9.)

12 **Local Rule 20.2.3 Notice**

13 Pursuant to Local Rule 20.2.3, the court will issue a tentative ruling for this matter on the
14 court day before the hearing. The tentative ruling will be available after 12:00 noon as an audio
15 recording accessible at (916) 408-6480; the tentative ruling will also be available at the court’s
16 website, www.placer.courts.ca.gov. The tentative ruling shall become the final ruling on the
17 matter and no hearing will be held unless oral argument is timely requested or the tentative ruling
18 indicates otherwise. Requests for oral argument must be made by calling (916) 408-6481 no later
19 than 4:00 p.m. on the court day prior to the hearing.

20
21 Dated: February 2, 2022

LIEBERT CASSIDY WHITMORE

22
23
24 By:



25 Michael D. Youril
26 Lars T. Reed
27 Attorneys for Respondent
28 COUNTY OF PLACER

MOTION TO STRIKE

Defendants' Motion to Strike is made pursuant to Code of Civil Procedure sections 435 and 436, and on the grounds that the following portions of the Petition are irrelevant, improper, or not filed in conformity with the laws of this state:

1. Paragraphs 10 through 63, inclusive (page 4, line 1, through page 10, line 10).

Dated: February 2, 2022

LIEBERT CASSIDY WHITMORE

By:



Michael D. Youril
Lars T. Reed
Attorneys for Respondent
COUNTY OF PLACER

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On December 21, 2021, Petitioners Placer County Deputy Sheriffs' Association ("DSA")
4 and Noah Frederito ("Frederito") (collectively, "Petitioners") filed a Verified Petition for Writ of
5 Mandate and Complaint for Declaratory Relief against Respondent County of Placer ("County"
6 or "Respondent"). On January 21, 2022, Petitioners filed an Amended Petition. Petitioners bring
7 the following causes of action against the County: (1) Violation of Elections Code § 9125;
8 (2) Violation of Placer County Code § 3.12.040; and (3) Request for Declaratory Relief.

9 Petitioners' claims arise from the actions of the County Board of Supervisors at two
10 meetings in September of 2021. In short, Petitioners argue that the Board's amendment of County
11 Code section 3.12.040 – a County ordinance that mirrored the salary-setting terms of a 1976
12 ballot initiative known as "Measure F" – violated the Elections Code because the County did not
13 seek prior voter approval. Petitioners also claim – on the apparent assumption that the repeal was
14 unlawful and the old ordinance was still in effect – that the Board's subsequent imposition of pay
15 raises for deputy sheriffs violated the County ordinance.

16 In addition to facts relevant to these causes of action, Petitioners include a plethora of
17 additional and extraneous allegations that include: extensive description of the parties' bargaining
18 history; details regarding the parties' most recent collective bargaining and subsequent impasse
19 resolution proceedings the parties engaged in pursuant to the Meyers-Milias-Brown Act;
20 extensive history regarding the DSA's own past efforts to repeal the salary-setting ordinance; and
21 unsupported conjecture on the part of the Petitioners. The Court should strike these extraneous
22 allegations, which are irrelevant and improper because they are not pertinent to Petitioners'
23 causes of action.¹ These allegations serve only to confuse the issues at hand by introducing
24 factual assertions that have no bearing on the legal questions presented by the Petition, while also
25 portraying the County in an unflattering light. Striking these allegations would facilitate a prompt
26 adjudication on the merits of this case by focusing the pleadings on only relevant facts.

27
28 ¹ The County notes that the County's demurrer, filed concurrently herewith, could render moot
this motion to strike.

1 **II. ARGUMENT**

2 **A. THE COURT MAY STRIKE PORTIONS OF THE COMPLAINT THAT**
3 **ARE IRRELEVANT, FALSE, IMPROPER, OR NOT FILED IN**
4 **CONFORMITY WITH THE LAWS OF THIS STATE**

5 Code of Civil Procedure section 436 allows the Court to strike any irrelevant, false or
6 improper matter asserted in any pleading or to strike any part of a pleading that is not drawn or
7 filed in conformity with the laws of this state. The grounds for the motion to strike must appear
8 on the face of the pleading under attack or from a matter that is subject to judicial notice. (Code
9 Civ. Proc. § 437, subd. (a).)

10 “Irrelevant matter” includes any allegation that is not essential to the statement of a claim
11 or defense, or an allegation that is neither pertinent to nor supported by an otherwise sufficient
12 claim or defense. (Code Civ. Proc. § 431.10.) Similarly, the term “relevant” as used in the
13 California Evidence Code refers to evidence “having any tendency in reason to prove or disprove
14 any disputed fact that is of consequence to the determination of the action.” (Evid. Code § 210.)

15 **B. ALLEGATIONS AND REFERENCES TO EVENTS THAT ARE NOT**
16 **PERTINENT TO PETITIONERS’ CAUSES OF ACTION MUST BE**
17 **STRICKEN BECAUSE THEY ARE IRRELEVANT**

18 The bulk of the Petition consists of factual allegations, arguments, and conjecture that is
19 simply not relevant to resolution of this case. Petitioners assert two substantive causes of relief
20 (plus a derivative request for declaratory relief): First, Petitioners allege that the County’s repeal
21 of County Code section 3.12.040 without voter approval violated Elections Code section 9125.
22 Second, Petitioners allege that the County ordinance enacting changes to deputy sheriffs’
23 compensation violated County Code section 3.12.040. Both of these causes of action can be
24 adjudicated on a very simple set of facts that are essentially undisputed.

25 Specifically, the only facts relevant to adjudication of Petitioners’ Elections Code claim –
26 including consideration of the County’s defenses² – are as follows: (1) the enactment of Measure

27 _____
28 ² The County’s substantive opposition to the legal merits of Petitioners’ causes of action are set
forth in the County’s demurrer, which is filed concurrently herewith.

1 F in 1976 and the specific language of the ballot measure; (2) the County's subsequent
2 codification of Measure F's salary-setting formula in the County Code at Section 3.12.040, (3) the
3 enactment of the Placer County Charter in 1980 and the language of the Charter; and (4) the
4 County's repeal and replacement of Section 3.12.040 on September 28, 2021. As for Petitioners'
5 claim that the County violated County Code section 3.12.040, that cause of action is entirely
6 dependent on a ruling that the County's repeal of section 3.12.040 was unlawful; assuming
7 *arguendo* that Petitioners prevail on that argument, the only additional fact required to adjudicate
8 the claim is the fact that on September 28, 2021, *after* voting to repeal Section 3.12.040, the
9 Board of Supervisors voted to impose a salary increase that was higher than the Measure F salary
10 formula would have prescribed.

11 These necessary facts are addressed by paragraphs 1-9 and 64-75 of the Petition. By
12 contrast, paragraphs 10-63 of the Petition are entirely irrelevant. More than simply being
13 *unnecessary* to evaluating Petitioners' legal claims, the facts alleged in paragraphs 10-63 of the
14 Petition have no probative value whatsoever to the causes of action raised in the petition. As
15 outlined in further detail below, these additional allegations are not essential to the statement of
16 Petitioners' claims, are neither pertinent to nor supported by an otherwise sufficient claim, and
17 have no tendency to prove or disprove any factual questions actually material to their action.

18 The County acknowledges that these 64 paragraphs cover a range of different subjects.
19 For the sake of facilitating a thorough assessment of their relevance, the following sections set
20 forth the County's objections to the Petitioners' extraneous allegations, grouped by subject.
21 However, the County reiterates that the same underlying objection applies to each and every one
22 of the paragraphs the County seeks to strike: They are all entirely irrelevant to the legal questions
23 at hand and serve little purpose other than to portray the County in an unflattering light and
24 confuse the factual record before the Court.

25 ///

26 ///

27 ///

28 ///

1 **1. Prior representations or public statements by the County are not**
2 **relevant to whether the County had the legal authority to repeal**
3 **Section 3.12.040.**

4 Paragraphs 10, 11, 13, 30, and 38-41 of the Petition contain allegations regarding prior
5 representations and public statements allegedly made by County representatives regarding the
6 validity and legal status of Measure F. Whether or not the alleged statements were made – or
7 whether or not the Petition accurately describes them – representations and statements by County
8 officials are not relevant to determining: (1) whether the County in fact had the legal authority to
9 repeal Section 3.12.040; or (2) whether the County’s subsequent pay raise was lawful.

10 **2. Prior initiative attempts to repeal Measure F are not relevant to**
11 **whether Measure F was legally valid in the first place.**

12 Paragraphs 12, 14, and 15 of the Petition contain allegations about prior (failed) ballot
13 initiatives attempting to repeal Placer County Code section 3.12.040. Even assuming these
14 allegations are accurate, a vote of the electorate *not* to repeal an ordinance has no probative value
15 in determining whether the original ordinance was valid and enforceable, or whether the County
16 had the legal authority to repeal it. These allegations are similarly not relevant to determining
17 whether the County’s imposed pay raise was lawful.

18 **3. The DSA’s subjective motivations are not relevant to whether the**
19 **County had the legal authority to repeal Section 3.12.040.**

20 Paragraph 16 simply alleges that the DSA “accepted the judgement of the voters” with
21 respect to its failed attempt to repeal Section 3.12.040 in 2006. As a private, non-governmental
22 entity, the DSA’s decision to forgo further attempts to repeal Section 3.12.040 – for any reason –
23 is entirely irrelevant to whether that ordinance reflected a valid and enforceable ballot initiative in
24 the first place or whether the County had the legal authority to repeal Section 3.12.040, and is
25 similarly irrelevant to whether the County’s subsequent pay raise was lawful.

26 ///

27 ///

28 ///

1 **4. The parties' past practice of wage increases is not relevant to whether**
2 **the County had the legal authority to repeal Section 3.12.040 or**
3 **unilaterally impose pay raises.**

4 Paragraphs 17-19 and paragraph 21 of the Petition contain allegations regarding the
5 parties' past practice of enacting salary increases consistent with Measure F. The California
6 Constitution and the Placer County Charter both give the County Board of Supervisors broad
7 discretion to set compensation for County employees, subject to collective bargaining pursuant to
8 the Meyers-Milias-Brown Act. (Cal. Const., art. XI, §§ 1 & 4; Placer County Charter § 302).
9 Allegations that the County in fact provided pay increases consistent with the formula specified
10 by Section 3.12.040 – either unilaterally or by agreement with the DSA – have no probative value
11 in determining whether a ballot initiative *compelling* those raises is legally valid. Accordingly,
12 those allegations are not relevant to determining whether the County had the legal authority to
13 repeal Section 3.12.040, or whether the subsequent pay raise was lawful.

14 **5. Prior unchallenged amendments to Section 3.12.040 are not relevant to**
15 **whether the County had the legal authority to repeal that ordinance.**

16 Paragraph 20 of the Petition contains allegations regarding a prior amendment to County
17 Code section 3.12.040 that did not affect the salary-setting formula for deputy sheriffs. The
18 Petition does not allege that either the DSA or any other party ever challenged the validity of that
19 prior amendment to the ordinance, nor that any court or administrative body have ever ruled on its
20 validity. As such, the mere fact that the ordinance was previously amended has no probative value
21 to determining whether Measure F was a valid and enforceable ballot initiative in the first place,
22 or whether the County had the legal authority to repeal Section 3.12.040. It is similarly irrelevant
23 to determining whether the County's subsequent imposition of pay raises was lawful.

24 **6. Unsupported speculation about the County's motives is not relevant to**
25 **whether the County had the legal authority to repeal Section 3.12.040.**

26 Paragraphs 22 and 23 of the Petition consist of unsupported speculation regarding the
27 County's motives for repealing Section 3.12.040 and the County's legal position regarding its
28 authority to do so. Even assuming, for the sake of argument only, that Petitioners' speculation is

1 accurate, neither the County's motives nor the County's legal position with respect to the repeal
2 of Section 3.12.040 are probative of whether the County in fact had the authority to repeal the
3 ordinance, nor are they relevant to whether the County's imposed pay raise was lawful.

4 **7. The County's practices regarding compensation for members of the**
5 **Board of Supervisors are not relevant to whether the County had the**
6 **legal authority to repeal Section 3.12.040.**

7 Paragraph 24 concerns the County's policy for determining compensation for members of
8 the County Board of Supervisors. Both the state constitution and the County Charter give the
9 Board of Supervisors broad discretion in setting compensation for members of the Board itself.
10 (Cal. Const., art. XI, § 1; Placer County Charter § 302.) Moreover, Measure F does not even
11 purport to affect compensation for members of the Board of Supervisors. (Petition at ¶ 5;
12 County's Request for Judicial Notice, Exhibit B.) Accordingly, whatever policy the County may
13 have for setting compensation for Board members is simply not relevant to determining whether
14 the County had the authority to repeal Section 3.12.040, nor whether the County's subsequent
15 imposition of pay raises was lawful.

16 **8. The parties' collective bargaining history is not relevant to whether the**
17 **County had the legal authority to repeal Section 3.12.040.**

18 Paragraphs 25-34, 47-48, and 52-53 of the Petition contain allegations regarding the
19 parties' most recent collective bargaining negotiations beginning in 2018 and leading up to a
20 declaration of impasse. Again, the California Constitution and the Placer County Charter both
21 give the County Board of Supervisors broad discretion to set compensation for County
22 employees, subject to collective bargaining pursuant to the Meyers-Milias-Brown Act. (Cal.
23 Const., art. XI, §§ 1 & 4; Placer County Charter § 302; Gov. Code § 3500 *et seq.*). Whatever the
24 parties' prior bargaining history, including whether the parties' past practice was consistent with
25 the Measure F formula, or whether the parties ever proposed eliminating the Measure F formula,
26 the parties' negotiations are simply not relevant to determining whether the County had the legal
27 authority to repeal Section 3.12.040. They are also not relevant to determining whether the
28 County's imposed pay raise was lawful.

1 **9. The parties’ participation in statutory impasse resolution factfinding**
2 **procedures is not relevant to whether the County had the legal**
3 **authority to repeal Section 3.12.040.**

4 Paragraphs 35-37 and 58-63 contain allegations regarding a statutory factfinding
5 proceeding the parties participated in following the negotiation impasse. A factfinding is an
6 impasse resolution procedure, conducted pursuant to the Meyers-Milias-Brown Act, resulting in a
7 report containing recommended terms of settlement – which are advisory only – in order to
8 facilitate a negotiated agreement between the parties. (Gov. Code § 3505.4; Gov. Code § 3505.5.)

9 The parties’ participation in this process, and any advisory recommendations resulting
10 from the process, are not relevant to determining the legal question of whether the County had
11 authority to repeal Section 3.12.040, or whether the County’s subsequent pay raise was lawful.

12 **10. The procedural history of an administrative proceeding pending**
13 **before PERB is not relevant to whether the County had the legal**
14 **authority to repeal Section 3.12.040.**

15 Paragraphs 42-45 of the Petition contain allegations regarding the DSA’s filing of an
16 unfair practice charge before the Public Employment Relations Board (“PERB”) and the
17 County’s response. PERB has jurisdiction over the administration and enforcement of
18 California’s public sector labor relations laws. (See *San Diego Municipal Employees Assn. v.*
19 *Superior Court* (2012) 206 Cal.App.4th 1447, 1456; Gov. Code § 3509.) But PERB’s authority is
20 limited to what is “reasonably necessary to effectuate the administrative agency’s primary,
21 legitimate regulatory purposes.” (*City of San Diego* (2015) PERB Decision No. 2464-M, p. 42,
22 [quoting *McHugh v. Santa Monica Rent Control Bd.* (1989) 49 Cal.3d 348, 359.]

23 Accordingly, PERB does *not* have jurisdiction over alleged violations of the Elections
24 Code, alleged violations of voter-enacted ballot initiatives, alleged violations of the Placer County
25 Code, nor alleged violations of the electorate’s constitutional right to initiative. (See also *Los*
26 *Angeles Unified School District* (1990) PERB Decision No. 835 [PERB has no authority to
27 enforce constitutional protections].) As such, allegations regarding administrative proceedings
28 currently pending before PERB have no probative value to whether the County had the legal

1 authority to repeal Section 3.12.040, nor to whether the County's subsequent pay raise was
2 lawful.

3 **11. Unsupported speculation about the County's motives in making**
4 **negotiation proposals is not relevant to whether the County had the**
5 **legal authority to repeal Section 3.12.040.**

6 Paragraph 46 and paragraphs 49-50 consist of further unsupported speculation regarding
7 the County's motives. Specifically, the County's motives for making certain proposals during
8 collective bargaining. Again, even assuming for the sake of argument that Petitioners' speculation
9 is accurate, the County's motives are simply not probative to whether the County had authority to
10 repeal Section 3.12.040, nor to the derivative question of whether the County's imposition of pay
11 raises was lawful.

12 **12. The County's negotiations with another bargaining unit are not**
13 **relevant to whether the County had the legal authority to repeal**
14 **Section 3.12.040.**

15 Paragraph 51 of the Petition contains allegations regarding the County's negotiations with
16 another County bargaining unit and subsequent implementation of salary changes for that
17 bargaining unit. As discussed in sections 7 and 8 above, neither collective bargaining history nor
18 the parties' past practices for implementing pay raises are relevant to the legal questions at issue
19 in this case: whether the County had the legal authority to repeal Section 3.12.040, and whether
20 the County's subsequent imposed pay raise for DSA-represented employees was lawful.

21 **13. The County's efforts to meet and confer over the proposed repeal of**
22 **Section 3.12.040 are not relevant to whether the County had the legal**
23 **authority to repeal that ordinance.**

24 Paragraphs 54-57 of the Petition contain allegations regarding the County's attempts to
25 meet and confer with the DSA over its proposed repeal of Section 3.12.040. The Petition does not
26 allege a cause of action for failure to meet and confer or a cause of action for bargaining in bad
27 faith. Nor would such causes of action be proper, given that PERB has exclusive initial
28 jurisdiction over alleged violations of the Meyers-Milias-Brown Act. (Gov. Code § 3509.)

Whether or not the County had an obligation under the MMBA to meet and confer over the proposed repeal of Section 3.12.040, the County's efforts to engage in bargaining are not relevant to whether the County had the underlying authority to execute the proposed repeal (with or without negotiated agreement). Accordingly, they are also not relevant to whether the County's imposed pay raise was lawful.

C. LEAVE TO AMEND WOULD BE FUTILE AND SHOULD BE DENIED

Although the courts have adopted a liberal policy in favor of allowing amendments to defective pleadings, leave to amend is still only proper where the defect in question is "capable of cure." (See *Vaccaro v. Kaiman* (1998) 63 Cal.App.4th 761, 768.) Here, the portions of the Petition the County seeks to strike are not merely defective for some technical procedural reason such as an untimely filing or omission of counsel's signature; rather, the challenged allegations relate to factual matters that are entirely irrelevant to the legal causes of actions set forth in the Petition. Accordingly, there is no reasonable possibility that the challenged portions of the Petition could be amended to cure their defect, and the court should grant the County's motion to strike without leave to amend the stricken portions.³


III. CONCLUSION

For the foregoing reasons, this Court should grant in its entirety Respondent's motion to strike portions of the Petition, without leave to amend the stricken portions.

Dated: February 2, 2022

LIEBERT CASSIDY WHITMORE

By:



Michael D. Youril
Lars T. Reed
Attorneys for Respondent
COUNTY OF PLACER

³ The County also notes that it is not seeking to strike the operative causes of action or the factual allegations that are actually relevant thereto. Thus, unless the Court *also* sustains the County's demurrer, granting the County's motion to strike in full without leave to amend would *not* constitute a "drastic step which leads to complete termination of the pleader's action." (See *Vaccaro, supra*, 63 Cal.App.4th at 768.)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF PLACER

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is: **5250 N. Palm Ave., Suite 310, Fresno, CA 93704.**

On **February 2, 2022**, I served the foregoing document(s) described as
RESPONDENT'S NOTICE OF MOTION AND MOTION TO STRIKE PORTIONS OF PETITIONERS' AMENDED VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF in the manner checked below on all interested parties in this action addressed as follows:

David E. Mastagni
Taylor Davies-Mahaffey
Mastagni Holstedt, APC
1912 I Street
Sacramento, California 95811
email: davidm@mastagni.com
tdavies-mahaffey@mastagni.com

- ☒ **(BY U.S. MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Fresno, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on **February 2, 2022**, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Constance Dewey

Exhibit 5

Michael D. Youril, Bar No. 285591
myouril@lcwlegal.com
Lars T. Reed, Bar No. 318807
lreed@lcwlegal.com
LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
400 Capitol Mall, Suite 1260
Sacramento, CA 95814
Telephone: 916-584-7000
Facsimile: 916-584-7083

Attorneys for Respondent COUNTY OF PLACER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

PLACER COUNTY DEPUTY
SHERIFFS' ASSOCIATION and NOAH
FREDERITO,

Petitioners,

v.

COUNTY OF PLACER,

Respondent.

Case No.: S-CV-0047770

Complaint Filed: December 21, 2021

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF RESPONDENT COUNTY OF
PLACER'S DEMURRER TO, AND MOTION
TO STRIKE PORTIONS OF, PETITIONERS'
AMENDED VERIFIED PETITION FOR WRIT
OF MANDATE AND COMPLAINT FOR
DECLARATORY RELIEF**

Date: March 3, 2022

Time: 8:30 am

Dept.: 42

(*Exempt from filing fees pursuant to Gov.
Code, § 6103.)

Respondent COUNTY OF PLACER ("County") respectfully asks the Court to take
judicial notice, pursuant to Evidence Code sections 451, 452, and 453, of the following
documents in support of the County's Demurrer and Motion to Strike filed concurrently herewith
in response to the Amended Petition for Writ of Mandate and Complaint for Declaratory Relief
filed by Petitioners Placer County Deputy Sheriffs' Association and Noah Frederito (collectively
"Petitioners") on January 21, 2022:

1. Placer County Board of Supervisors Resolution No. 76-449, dated August 24,
1976, recognizing a petition bearing the requisite number of signatures calling for
an election on a proposed ordinance for salaries for Sheriff's personnel, a true and

correct copy of which is attached to the Declaration of Ryan Ronco, filed concurrently herewith, as **Exhibit A**.

2. The Placer County Sheriff's Salaries Ordinance Initiative (also known as "Measure F") as it appeared on the election ballot for Placer County in the general election held November 2, 1976, a true and correct copy of which is attached to the Declaration of Ryan Ronco, filed concurrently herewith, as **Exhibit B**.
3. The vote totals for and against Measure F in the Placer County general election held November 2, 1976, a true and correct copy of which is attached to the Declaration of Ryan Ronco, filed concurrently herewith, as **Exhibit C**.
4. The Proposed Adoption of the Placer County Charter (also known as "Measure K"), as it appeared on the election ballot for Placer County in the general election held November 4, 1980, a true and correct copy of which is attached to the Declaration of Ryan Ronco, filed concurrently herewith, as **Exhibit D**.
5. The vote totals for and against Measure K in the Placer County general election held November 4, 1980, a true and correct copy of which is attached to the Declaration of Ryan Ronco, filed concurrently herewith, as **Exhibit E**.

The Court may take judicial notice of Exhibits A, B, and D because they are legislative enactments issued by or under the authority of a public entity in the United States, and because initiative measures and ballot materials are subject to judicial notice. (Evid. Code § 452, subd. (b); *People v. Hazelton* (1996) 14 Cal.4th 101, 107 n.2.) The Court may also take notice of Exhibit D because a court "shall" take judicial notice of the provisions of a duly adopted County charter. (Evid. Code § 451, subd. (a).) The Court may take notice of Exhibits C and E because "[t]he result of a public election is a fact not reasonably subject to dispute and capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code, § 452, subd. (h); *Yumori-Kaku v. City of Santa Clara* (2020) 59 Cal.App.5th 385, 408 n.7.)

///

///

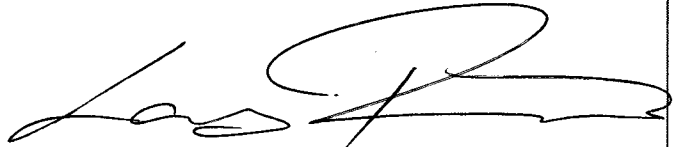
1 Respondent has given sufficient notice of its request for judicial notice to Petitioners
2 through the pleadings in this case, and has provided sufficient information with this Request to
3 enable the Court to take judicial notice. (Evid. Code § 453.)

4 Therefore, the County requests that the Court take judicial notice of Exhibits A through E.

5 Dated: February 2, 2022

LIEBERT CASSIDY WHITMORE

6
7
8 By:


Michael D. Youril
Lars T. Reed
Attorneys for Respondent
COUNTY OF PLACER

STATE OF CALIFORNIA, COUNTY OF PLACER

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is: **5250 N. Palm Ave., Suite 310, Fresno, CA 93704.**

On **February 2, 2022**, I served the foregoing document(s) described as **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF RESPONDENT COUNTY OF PLACER’S DEMURRER TO, AND MOTION TO STRIKE PORTIONS OF, PETITIONERS’ AMENDED VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF** in the manner checked below on all interested parties in this action addressed as follows:

David E. Mastagni
Taylor Davies-Mahaffey
Mastagni Holstedt, A.P.C.
1912 I Street
Sacramento, CA 95811
email: davidm@mastagni.com
tdavies-mahaffey@mastagni.com

☒ **(BY U.S. MAIL)** I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Fresno, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on **February 2, 2022**, at Fresno, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Constance Dewey

Exhibit 6

Michael D. Youril, Bar No. 285591
myouril@lcwlegal.com
Lars T. Reed, Bar No. 318807
lreed@lcwlegal.com
LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
400 Capitol Mall, Suite 1260
Sacramento, CA 95814
Telephone: 916-584-7000
Facsimile: 916-584-7083

Attorneys for Respondent COUNTY OF PLACER

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF PLACER

**PLACER COUNTY DEPUTY
SHERIFFS' ASSOCIATION and
NOAH FREDERITO,**

Petitioners,

v.

COUNTY OF PLACER,

Respondent.

Case No.: S-CV-0047770
Complaint Filed: December 21, 2021

**DECLARATION OF LARS T. REED IN
SUPPORT OF RESPONDENT'S DEMURRER
TO AMENDED VERIFIED PETITION FOR
WRIT OF MANDATE AND COMPLAINT
FOR DECLARATORY RELIEF AND IN
SUPPORT OF RESPONDENT'S MOTION TO
STRIKE.**

**[Filed concurrently with Respondent's Notice
and Motion to Strike and Demurrer to Amended
Petition.]**

Date: March 3, 2022
Time: 8:30 a.m.
Dept.: 42

**(*Exempt from filing fees pursuant to Gov.
Code, § 6103.)**

I, Lars T. Reed, declare as follows:

1. I am duly licensed to practice law in the State of California. I am an attorney with the law firm of Liebert Cassidy Whitmore ("LCW"), counsel of record in the above-captioned matter for Respondent COUNTY OF PLACER ("Respondent" or "County"), along with Michael D. Youril. This declaration is submitted in support of Respondent's Demurrer to the Verified Petition for Writ of Mandate and Complaint for Declaratory Relief ("Original Petition") filed by Petitioners Placer County Deputy Sheriff's Association and Noah Frederito (collectively,

Liebert Cassidy Whitmore
A Professional Law Corporation
400 Capitol Mall, Suite 1260
Sacramento, CA 95814

1 “Petitioners”). The following facts are within my personal knowledge and, if called as a witness
2 herein, I can and will testify competently thereto.

3 2. Petitioners filed the Original Petition on December 21, 2021, and I am informed
4 that it was served on Respondent on January 4, 2022.

5 3. On January 12, 2022, Michael Youril and I participated in a teleconference with
6 David E. Mastagni and Taylor Davies-Mahaffey of the law firm Mastagni Holstedt, counsel for
7 Petitioners, to meet and confer regarding Respondent’s intent to file a demurrer and motion to
8 strike in response to the Original Petition, pursuant to the requirements of Code of Civil
9 Procedure section 430.41(a), and Placer County Local Rule 20.2.1.

10 4. During the call, we discussed the County’s legal position – underlying its proposed
11 demurrer – that the 1976 ballot initiative known as Measure F is void and unenforceable under
12 the California Constitution, the Meyers-Milias-Brown Act, and the Placer County Charter.
13 Counsel for both parties agreed that these legal arguments have been discussed at length between
14 the parties in prior correspondence and pleadings. Mr. Mastagni indicated that the Petitioners
15 continued to disagree with the County’s legal position and believed the Original Petition set forth
16 a valid legal claim.

17 5. We also discussed the County’s proposed motion to strike. Mr. Youril and I
18 explained the County’s position that a substantial portion of the allegations in the Petition are
19 entirely irrelevant to determining the legal questions underlying the specific causes of action
20 asserted in the Petition. Mr. Mastagni indicated that he believes everything alleged in the Petition
21 is relevant.

22 6. On January 21, 2022, Petitioners filed an Amended Petition for Writ of Mandate
23 and Complaint for Declaratory Relief (“Amended Petition”), which our office received by e-mail
24 service the same day.

25 7. On January 28, 2022, Mr. Youril and I participated in a second teleconference with
26 Mr. Mastagni and Ms. Davies-Mahaffey to meet and confer over the County’s proposed demurrer
27 and motion to strike.

28 ///

1 8. During the call, Mr. Youril and I explained that the Amended Petition did not
2 address the County's position with regard to the legal merits, and that the same grounds for
3 demurrer still remained. We also explained that although the Amended Petition omitted some of
4 the allegations the County objected to in the Original Petition, the majority of the allegations the
5 County sought to strike still remained. We explained that the County still maintained that the
6 challenged sections were legally irrelevant with no probative value to the legal issues raised by
7 the Petition, and so the County still intended to file a motion to strike. Mr. Mastagni explained
8 that Petitioners maintain that the Petition states a valid cause of action, and that the challenged
9 sections are relevant.

10 9. During this call, the parties were not able to reach an agreement resolving
11 Respondent's objections to the Amended Petition. Mr. Mastagni indicated that he had no
12 intention to further amend the Petition in response to Respondent's objections.

13 I declare under penalty of perjury under the laws of the United States and the State of
14 California that the foregoing is true and correct.

15 Executed this 2nd day of February 2022, at Sacramento, California.

16
17 
18 Lars T. Reed

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF FRESNO

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is: **5250 N. Palm Ave., Suite 310, Fresno, CA 93704.**

On **February 2, 2022**, I served the foregoing document(s) described as **DECLARATION OF LARS T. REED IN SUPPORT OF RESPONDENT'S DEMURRER TO AMENDED VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF AND IN SUPPORT OF RESPONDENT'S MOTION TO STRIKE.** in the manner checked below on all interested parties in this action addressed as follows:

David E. Mastagni
Taylor Davies-Mahaffey
Mastagni Holstedt, APC
1912 I Street
Sacramento, California 95811
email: davidm@mastagni.com
tdavies-mahaffey@mastagni.com

- ☒ **(BY U.S. MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Fresno, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on **February 2, 2022**, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Constance Dewey

Exhibit 7

Michael Youril, Bar No. 252112
myouril@lcwlegal.com
Lars T. Reed, Bar No. 318807
lreed@lcwlegal.com
LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
400 Capitol Mall, Suite 1260
Sacramento, CA 95814
Telephone: 916-584-7000
Facsimile: 916-584-7803

Attorneys for Respondent COUNTY OF PLACER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF PLACER

PLACER COUNTY DEPUTY SHERIFF'S
ASSOCIATION and NOAH FREDERITO

Petitioners,

v.

COUNTY OF PLACER,

Respondent.

Case No. S-CV-0047770

**DECLARATION OF RYAN RONCO IN
SUPPORT OF REQUEST FOR JUDICIAL
NOTICE**

Date: March 3, 2022

Time: 8:30 a.m.

Dept: 42

I, RYAN RONCO, declare as follows:

1. I am over the age of eighteen years old. I have personal knowledge of the matters herein, and if called upon to do so, I could and would competently testify thereto.
2. I am the elected County Clerk / Recorder / Registrar of Voters for the County of Placer.
3. My office retains the official records of past elections.
4. Attached to my declaration as **Exhibit A** is a true and correct copy of Placer County Board of Supervisors Resolution No. 76-449 recognizing a petition bearing the requisite number of signatures calling for an election on a proposed ordinance for salaries for Sheriff's personnel. Pursuant to the Resolution No. 76-449, the Board of Supervisors on August 24, 1976 authorized

1 the proposed ordinance to be submitted to the voters in the General Election scheduled for
2 November 2, 1976.

3 5. Attached to my declaration as **Exhibit B** is a true and correct copy of the Placer County
4 Sheriff's Salaries Ordinance Initiative, Impartial Analysis of said Initiative and Argument in
5 Favor of Said Initiative.

6 6. Placer County Sheriff's Salaries Ordinance Initiative was placed on the ballot as Measure
7 F, and it was passed by a majority of the Placer County electorate on the election of November 2,
8 1976. Attached to my declaration as **Exhibit C** is a true and correct copy of the vote totals for
9 Measure F.

10 7. Attached to my declaration as **Exhibit D** is a true and correct copy of the sample ballot of
11 the November 4, 1980 election related to Measure K, the Proposed Adoption of the Placer County
12 Charter, the Impartial Analysis, and Argument in Favor and Against.

13 8. Attached to my declaration as **Exhibit E** is the vote totals for Measure K from the
14 November 4, 1980 election. A majority of the Placer County electorate voted "Yes" on Measure
15 K. Therefore, Measure K did pass.

16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct, except where alleged on information and belief. Executed this 27
18 day of January, 2022 in Rockyview, California.

19
20
21 By: 

22 RYAN RONCO
23 PLACER COUNTY CLERK RECORDER
24 REGISTRAR OF VOTERS
25
26
27
28

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Before the Board of Supervisors
County of Placer, State of California

In the matter of: RESOLUTION RELATING TO
SALARIES FOR SHERIFF'S PERSONNEL
AND CALLING FOR ELECTION

Resol. No: 76-449

Ord. No: _____

Min. Bk: 40 Pg. _____

First Reading: _____

The following RESOLUTION was duly passed by the Board of Supervisors
of the County of Placer at a regular meeting held August 24, 1976
by the following vote on roll call:

Ayes: Ferreira, Henry & Lee

Noes: None

Absent: Mahan and Thompson

THE FOREGOING INSTRUMENT IS A CORRECT
COPY OF THE ORIGINAL ON FILE IN THIS OFFICE
ATTEST: 8-25-76

MAURINE I. DOBBAS

County Clerk and ex-officio Clerk of the Board
of Supervisors of the County of Placer, State
of California.

Phyllis Harris
DEPUTY CLERK

Signed and approved by me after its passage.

MICHAEL A. LEE

Attest: MAURINE I. DOBBAS
Clerk of said Board

Chairman, Board of Supervisors

By: Phyllis Harris
Deputy.

WHEREAS, there has been presented to the Board of Supervisors
a petition bearing the requisite number of signatures calling for
an election on a proposed ordinance for salaries for Sheriff's
personnel, and this Board being mandated by law to submit the
matter to the voters,

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

1. Said matter shall be submitted to the voters at the next
general election.

2. Said general election shall be the General Election
scheduled for November 2, 1976.

3. Notice of said election shall be given as prescribed by
Elections Code Section 3712 and the County Clerk shall take such
further action as is prescribed by law.

EXHIBIT B

**COUNTY OF PLACER
SALARIES, PLACER COUNTY SHERIFF'S
ORDINANCE INITIATIVE
NOVEMBER 2, 1976**

F Shall the ordinance, SALARIES, PLACER COUNTY SHERIFF'S ORDINANCE INITIATIVE, be adopted?

Yes	
No	

**INITIATIVE MEASURE TO BE SUBMITTED
DIRECTLY TO THE ELECTORS
SALARIES, PLACER COUNTY SHERIFF'S,
ORDINANCE INITIATIVE.**

The Board of Supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County Sheriff's Office, El Dorado County Sheriff's Office and Sacramento County Sheriff's Office for each class of position employed by said agencies.

Effective January 1, 1977, and effective January 1st of each year thereafter the Board of Supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first pay period following January shall fix the average salary for each class of position in the Placer County Sheriff's Office at a level equal to the average of the salaries for the comparable positions in the Nevada County Sheriff's Office, El Dorado County Sheriff's Office and the Sacramento County Sheriff's Office.

As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:

Undersheriff	Inspector	Corporal
Captain	Sergeant	Deputy
Lieutenant		

The provisions of this ordinance shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are not elected by popular vote.

(It is proposed that the above ordinance be adopted by the Electors to insure that the employees of the Placer County Sheriff's Department shall have salaries comparable to the other competing law enforcement agencies surrounding Placer County).

**IMPARTIAL ANALYSIS OF COUNTY COUNSEL
AS TO OPERATION AND EFFECT OF MEASURE F
OPERATION OF MEASURE**

Beginning January 1, 1977, and each January 1st following, the County of Placer would determine the average salary paid in Nevada, Sacramento, and El Dorado counties for the following positions in the Sheriff's Office: Undersheriff, Captain, Lieutenant, Inspector, Sergeant, Corporal, and Deputy. Those salaries would then be averaged and each comparable position in Placer County would then be paid at a level equal to the average of the salaries for each such position.

The measure defines "comparable class of position" and provides that the measure takes precedence over any other provisions in Placer County ordinances pertaining to salaries.

EFFECT OF MEASURE
Under state law, the Board of Supervisors is directed to provide for the compensation of all county employees. In

(OVER)

**CONDADO DE PLACER
SALARIOS, LOS SHERIFFS DEL CONDADO
DE PLACER, INICIATIVA A DE ORDENANZA
2 DE NOVIEMBRE, 1976**

F Habrá de determinarse ordenanza, SALARIOS, LOS SHERIFFS DEL CONDADO DE PLACER, INICIATIVA DE ORDENANZA, sea adoptada?

Si	
No	

**MEDIDA DE INICIATIVA SER SOMETIDA
DIRECTAMENTE A LOS ELECTORES
SALARIOS, LOS SHERIFFS DEL CONDADO DE
PLACER, INICIATIVA A DE ORDENANZA**

La Junta de Supervisores habrá de determinar, por lo menos anualmente, los existentes salarios máximos de la Oficina del Sheriff del Condado de Nevada, la Oficina del Sheriff del Condado de El Dorado y la Oficina del Sheriff del Condado de Sacramento con respecto a cada clase de posición empleada por dichas agencias.

Efectivo el Primero de Enero, 1977, y efectivo el Primero de Enero de cada año después de eso la Junta de Supervisores habrá de determinar, durante el mes de Enero, el salario promedio de cada clase de posición según a lo que se establece en este asunto, y comenzando con el primer período de salario después de Enero habrá de arreglar el salario promedio de cada clase de posición en la Oficina del Sheriff del Condado de Placer a un nivel que es igual al promedio de salarios de posiciones comparables en la Oficina del Sheriff del Condado de Nevada, la Oficina del Sheriff del Condado de El Dorado y la Oficina del Sheriff del Condado de Sacramento.

El uso aquí del término "clase comparable de posición" ha de significar un grupo de posiciones substancialmente similares con respecto a calificaciones u obligaciones o responsabilidades usando las posiciones siguientes como guía indicador:

Subsheriff	Inspector	Cabo
Capitan	Sargento	Diputado
Teniente		

Las provisiones de esta ordenanza han de prevalecer sobre cualquier otra provision contradictoria que se relaciona a salarios de empleados u oficiales que no son elegidos por voto popular.

(Se propone que la antedicha ordenanza sea adoptada por los Electores para asegurar que los empleados del Departamento del Sheriff del Condado de Placer habrían de tener salarios comparables a las otras agencias competidoras en la ejecución de leyes en los alrededores del Condado de Placer).

**ANALISIS IMPARCIAL POR EL ABOGADO DEL CONDADO
EN CUANTO AL FUNCIONAMIENTO Y EL EFECTO DE LA
MEDIDA F
FUNCIONAMIENTO DE LA MEDIDA**

Comenzando con el primero de Enero, 1977, y cada primero de Enero siguiente, el Condado de Placer debería de determinar el salario promedio pagado en los Condados de Nevada, Sacramento, y El Dorado por los cargos siguientes en la Oficina del Sheriff: Subsheriff, Capitan, Teniente, Inspector, Sargento, Cabo, y Diputado. Entonces se calcularía el promedio de esos salarios y cada cargo comparable en el Condado de Placer sería pagado entonces a un nivel igual al promedio de los salarios por cada tal cargo.

La medida define "clase comparable del cargo" y estipula que la medida tiene precedencia sobre cualquier otra provision de las ordenanzas con respecto a salarios en el Condado de Placer.

addition, state law requires that the Board of Supervisors meet and confer with all employees in good faith prior to setting changes or making changes in compensation.

Under those provisions, staff representatives of the Board of Supervisors meet with employee organizations and prepare agreed-upon wage and fringe benefit proposals for Board review.

The proposed Initiative would change that approach as to the Placer County Undersheriff, and the Captains, Lieutenants, Inspectors, Sergeants, Corporals, and Deputies of the Placer County Sheriff's Office.

Instead, there would, as to those salaries, be substituted a formula approach tied to salaries paid in the Counties of Nevada, El Dorado and Sacramento for comparable classes of positions. The Board of Supervisors would have no discretion as to what those employees would receive as salaries. All of the remaining county employees' would continue to be set by the Board of Supervisors after such meeting and conferring with them and their representatives.

Dated: Sept. 20, 1976

L. J. DEWALD
County Counsel

Arguments in support or opposition of the proposed laws are the opinions of the authors.

ARGUMENT IN FAVOR OF INITIATIVE

The salary initiative for working officers of the Placer County Sheriff-Coroner's Department is the direct result of the outright refusal of the Board of Supervisors to approve adequate compensation for the persons who provide Placer residents and visitors with the most fundamental guarantee of government: the protection of their lives and property. The measure's primary sponsor is the Placer County Deputy Sheriffs' Association, whose some 100 members—all sworn peace officers—believe the wages they receive for performing their official duties, which routinely call for the risking of their lives and injury to their persons on behalf of the public, should be comparable to the average salaries paid sheriff's officers in the adjacent counties of El Dorado, Nevada and Sacramento. In order to qualify the measure for this ballot, the PCDSA had but 10 days to obtain some 3,200 valid signatures countywide. But despite this brief period allowed by law, the petitions resulted in more than 6,100 valid signatures—a clear indication that a representative cross-section of Placer residents agrees that sheriff's officers are underpaid and should be given the chance to ask the electorate to help rectify this injustice. Because virtually all its members are property owners and taxpayers in Placer County, the PCDSA feels it imperative to stress that NO tax increase whatever is needed to finance this measure. The County of Placer started the 1976-77 fiscal year with a reserve fund of \$567,849, considerably more than is needed to pay for this measure. Remember: NO tax raise is needed because you, the county residents, already have provided the money through the higher assessments that hit all of us. When you need help, you call the police. Now we need help, and we're calling on you. Vote YES—please.

The undersigned authors of the primary argument in favor of the ballot proposition for SALARIES, PLACER COUNTY SHERIFF'S ORDINANCE INITIATIVE at the General Election for the State of California, to be held on November 2, 1976, hereby state that such argument is true and correct to the best of their knowledge and belief.

SIGNED:

WILLIAM A. SCOTT, Sheriff-Coroner
Placer County, State of California

8-27-76
Date

N. P. MILEUR, Secretary-Treasurer
Placer County Deputy Sheriffs' Assn.

8-27-76
Date

No argument in opposition of the proposed laws was submitted.

EFFECTO DE LA INICIATIVA

Bajo la ley estatal la Junta de Supervisores queda dirigida a proveer la compensación de todos los empleados del Condado. Además, la ley estatal exige que la Junta de Supervisores se reúna y confiera con todos los empleados de buena fe antes de establecer cambios o hacer cambios en la compensación.

Bajo estas provisiones, los representantes del personal de la Junta de Supervisores se reúnen con las organizaciones de los empleados y preparan unas propuestas convenidas de salario y de beneficios marginales para el repaso de la Junta.

La iniciativa propuesta cambiaría esa proposición en cuanto al Subsheriff, y los Capitanes, Tenientes, Inspectores, Sargentos, Cabos del Condado de Placer, y los Diputados de la Oficina del Sheriff del Condado de Placer.

En cambio, se habría, en cuanto a esos salarios, de substituir un metodo de formula ligado a los salarios pagados en los Condados de Nevada, El Dorado y Sacramento por clases comparables de cargos. La Junta de Supervisores no tendría ninguna discreción en cuanto a lo que van a cobrar de salarios esos empleados. Todos los salarios de los otros empleados del Condado continuarían a ser establecidos por la Junta de Supervisores despues de tal reunion y conferencia con ellos y con sus representantes.

Fecha, el 20 de Septiembre, 1976

L. J. DEWALD
Abogado del Condado

Argumentos a favor o en contra de las leyes propuestas son las opiniones de los autores.

ARGUMENTO A FAVOR DE LA INICIATIVA

La iniciativa de salarios para los agentes de policia empleados en el departamento del sheriff-coroner del Condado de Placer es el resultado directo de la plena denegación de la Junta de Supervisores a aprobar compensación adecuada para las personas que proveen a los residentes y visitantes de Placer la garantía gubernativa mas fundamental: la protección de sus vidas y su propiedad. El patrocinador primario de la medida es la asociación de diputados del sheriff del condado de Placer, cuyos unos cien miembros—todos agentes jurados de policia de paz—creen que los pagos que reciben por llevar a cabo sus deberes oficiales, que diariamente exigen el riesgo de sus vidas y danos a ellos mismos por el publico, habrían de ser comparables a los salarios de promedio pagados a los agentes del sheriff en los condados alrededores de el dorado, Nevada y Sacramento. Para calificar esta medida para esta balota, la PSDSA solamente tuvo 10 días para obtener unas 3,200 signatures validas por todo el condado. Pero a pesar de este breve periodo permitido por la ley, las peticiones resultaron en mas de 6,100 signatures validas—una clara indicación que una sección transversal de los residentes de Placer esta de acuerdo de que los oficiales del sheriff cobran pagos insuficientes y merecen la oportunidad de pedir que el electorado ayudara a arreglar esta injusticia. Porque virtualmente todos los miembros son dueños de propiedad y pagadores de impuestos en el condado de Placer. La PCDSA cree que es imperativo insistir que no hay absolutamente ninguna necesidad de un aumento de impuesto para financiar esta medida. El condado de Placer comienza el año fiscal de 1976-77 con un fondo reserva de \$567,849, considerablemente mas de lo que necesitado para pagar esta medida.

Recuerden: no hay necesidad de un aumento de impuesto porque ustedes, los residentes del condado, ya han provisto el dinero por medio de tasaciones mas que todos nosotros hemos experimentado. Cuando ustedes necesitan ayuda, ustedes llaman a la policia. Ahora nosotros necesitamos ayuda, y los llamamos a ustedes. voten "si"—por favor.

Los abajo firmados autores del argumento preliminar a favor de la proposición de balota para SALARIOS, INICIATIVA DE ORDENANZA DEL SHERIFF DEL CONDADO DE PLACER a una Elección General para el Estado de California, que tendrá lugar el 2 de Noviembre, 1976, por lo presente declaran que tal argumento es verdad y correcto de su mejor conocimiento y creencia.

FIRMADO:

WILLIAM A. SCOTT, Sheriff-Coroner
Condado de Placer, Estado de California

8-27-76
Fecha

N. P. MILEUR, Secretario-Tesorero
Asociación de Diputados del Sheriff
del Condado de Placer

8-27-76
Fecha

No fue sometido ningún argumento en contra de las leyes propuestas.

EXHIBIT C

TYPE OF ELECTION

GEN - Pres

DATE OF ELECTION

Nov. 2, 1976

CANDIDATES

CANDIDATES

CANDIDATES

CANDIDATES

CANDIDATES

CANDIDATES

OUTCOME (STVC)

TAX OVERRIDE PROPOSITION

E In the event that the Initiative measure placed on the ballot for the election of November 2, 1976, entitled "Salaries, Placer County Sheriff's Ordinance Initiative" be approved by the voters, shall an override amount of five cents (5c) be authorized over the current maximum tax rate authorized by State law on every \$100 of assessed valuation of property, such increase to be in effect on a county-wide basis in Placer County commencing in the fiscal year 1977-1978, and each year thereafter. The revenues of said increase to be used to implement the salary adjustment in said Placer County Sheriff's Ordinance Initiative.

YES

NO

7661

28,992

MEASURE(S)

Text:

ORDINANCE INITIATIVE

F Shall the ordinance, SALARIES, PLACER COUNTY SHERIFF'S ORDINANCE INITIATIVE, be adopted?

YES

NO

21,404

16,481

OUTCOME (STVC)

EXHIBIT D

SIDE 1

CARD C

SIDE 2



C

OFFICIAL BALLOT

GENERAL ELECTION

PLACER COUNTY

NOVEMBER 4, 1980

This ballot stub shall be torn off by precinct board member and handed to the voter.

COUNTY		
PROPOSED COUNTY CHARTER ADOPTION MEASURE K		
K	Shall the proposed charter of the County of Placer be adopted?	YES +
		NO +
PROPOSED COUNTY CHARTER ALTERNATIVE PROVISION, MEASURE L		
L	Shall the proposed alternative providing for the election of County Supervisors at large, but requiring residency in the district the candidate will represent, be adopted?	YES +
		NO +
PROPOSED COUNTY CHARTER ALTERNATIVE PROVISION, MEASURE M		
M	Shall the proposed alternative providing for the appointment, rather than the election of the County Clerk-Recorder, be adopted?	YES +
		NO +
PROPOSED COUNTY CHARTER ALTERNATIVE PROVISION, MEASURE N		
N	Shall the proposed alternative providing for the appointment, rather than the election of the County Auditor-Controller, be adopted?	YES +
		NO +
PROPOSED COUNTY CHARTER ALTERNATIVE PROVISION, MEASURE O		
O	Shall the proposed alternative providing for the appointment, rather than the election of the County Treasurer-Tax Collector, be adopted?	YES +
		NO +

31301

C

31 88-7

Sample Ballot

000002

**PLACER COUNTY MEASURE K
FULL TEXT OF PROPOSED COUNTY CHARTER**

PREAMBLE

We, the citizens of Placer County, in order to secure the benefits of home rule; increase citizen participation in county government; improve efficiency; and provide for a responsible and cooperative county government; do hereby adopt this

CHARTER

ARTICLE I.

NAME, POWERS AND THEIR EXERCISE

Sec. 101. Name and Boundaries. The name of the county is "Placer County". Its boundaries and county seat shall be and remain as they are at the time this Charter takes effect.

Sec. 102. Powers. The County has and shall have all the powers which are now or may hereafter be provided by the Constitution and the laws of the State of California and by this Charter.

Sec. 103. Exercise of Powers. The powers mentioned in the preceding section shall be exercised only by a Board of Supervisors or through agents and officers acting under its authority or authority conferred by law.

ARTICLE II.

BOARD OF SUPERVISORS

Sec. 201. Governing Body. The Board of Supervisors is the governing body of Placer County. The Board consists of five (5) members.

Sec. 202. Districts. The County is divided into five (5) supervisorial districts. The boundaries of the supervisorial districts shall be and remain as they are at the time this Charter takes effect until otherwise changed pursuant to the general law.

Sec. 203. Election by District. Each member of the Board of Supervisors shall be elected from one of the five (5) supervisorial districts by the voters of that district. Each member shall have been a resident of the district which he seeks to represent for at least thirty (30) days immediately preceding the deadline for filing nomination documents for the office of supervisor, and shall reside in the district during his incumbency.

Sec. 204. Meetings. The Board shall meet in regular session at least once in each of four weeks every month unless a regular meeting day is a holiday. The Board shall provide by ordinance for a manner, time and place of holding all regular meetings.

Sec. 205. Term of Office. Except as otherwise provided in this Charter members of the Board of Supervisors shall be nominated and elected pursuant to the general law for a term of four (4) years. Members of the Board of Supervisors may be removed as provided under the general law.

Sec. 206. Vacancies. If a vacancy occurs on the Board of Supervisors, it shall be filled by the unanimous vote of the remaining members, and if they shall fail to make such appointment within thirty (30) days of the occurrence of any such vacancy, then such vacancy shall be filled by the Governor; provided that any appointment under this section shall be of a person who for at least thirty (30) days prior to his appointment has been a resident of the supervisorial district in which the vacancy exists.

Sec. 207. Compensation. Members of the Board of Supervisors shall receive compensation as established by ordinance from time to time. Until the effective date of the first such ordinance subsequent to the effective date of the Charter, members of the Board of Supervisors shall continue to receive the same compensation as now provided for by law.

ARTICLE III.

**GENERAL POWERS AND DUTIES OF THE
BOARD OF SUPERVISORS**

Sec. 301. In General. The Board shall have all the jurisdiction and authority which now or which may hereafter be granted by the Constitution and the laws of the State of California or by this Charter.

Sec. 302. Duties. The Board shall:

(a) Appoint or provide for the appointment by ordinance of all County officers other than elective officers, and all officers, assistants, deputies, clerks, and employees whose appointment is not provided for by this Charter. The Board shall from time to time, provide by ordinance, for the compensation of elective officers and of its appointees, unless such compensation is otherwise fixed by this Charter.

All appointments not otherwise provided for in this Charter, except in the cases of appointees to the unclassified service, shall be made pursuant to the County Civil Service System, as it now exists or hereafter may be amended by ordinance.

(CONTINUED ON NEXT PAGE)

**CONDADO DE PLACER, MEDIDA K
TEXTO COMPLETO DE PROPUESTA CARTA DEL CONDADO**

PREAMBULO

Nosotros, los ciudadanos del Condado de Placer, para asegurar los beneficios de autonomía; el aumento de la participación ciudadana en el gobierno del condado; mejorar la eficiencia; y formar un gobierno del condado responsable y cooperativo; adoptamos por la presente esta

CARTA

ARTICULO I

NOMBRE, PODERES Y SU EJERCICIO

Sec. 101. Nombre y Límites. El nombre del condado de "Condado de Placer". Los límites y capital del condado permanecerán como están en el momento de entrar en vigor esta Carta.

Sec. 102. Poderes. El Condado tiene y tendrá todos los poderes previstos ahora o en el futuro por la Constitución y las leyes del Estado de California y por esta Carta.

Sec. 103. Ejercicio de Poderes. Los poderes mencionados en la sección precedente se ejercerá solamente por un Consejo de Supervisores o por agentes y funcionarios que actúen bajo su autoridad o por autoridad conferida por ley.

ARTICULO II

CONSEJO DE SUPERVISORES

Sec. 201. Cuerpo de Gobierno. El Consejo de Supervisores es el cuerpo de gobierno del Condado de Placer. El Consejo consiste de cinco (5) miembros.

Sec. 202. Districtos. El Condado se divide en cinco (5) distritos de supervisión. Los límites de los distritos de supervisión permanecerán como están en el momento de entrar en vigor esta Carta hasta que se cambien por la ley general.

Sec. 203. Elección por Distrito. Cada miembro del Consejo de Supervisores será elegido por uno de los cinco (5) distritos de supervisión por los votantes de ese distrito. Cada miembro será residente del distrito que trata de representar, por treinta (30) días al menos inmediatamente anteriores al límite del plazo de presentación de documentos para nominación para el cargo de supervisor, y residirá en el distrito mientras ocupa el cargo.

Sec. 204. Reuniones. El Consejo se reunirá en sesión regular, una vez al menos cada una de las cuatro semanas cada mes, salvo que una reunión regular sea en día feriado. El Consejo dispondrá por ordenanza la forma, fecha y lugar de celebración de todas las reuniones regulares.

Sec. 205. Término en el Cargo. Excepto que se disponga de otra forma en esta Carta, los miembros del Consejo de Supervisores se nombrarán y elegirán de acuerdo con la ley general por un término de cuatro (4) años. Los miembros del Consejo de Supervisores pueden ser depuestos de acuerdo con la ley general.

Sec. 206. Vacantes. Si ocurre una vacante en el Consejo de Supervisores, se ocupará por el voto unánime de los miembros restantes, y si no se hace tal nombramiento dentro de los treinta (30) días de la ocurrencia de tal vacante, se ocupará tal vacante por el Gobernador; provisto que cualquier nombramiento bajo esta sección será de una persona que ha sido residente del distrito de supervisión en el que existe la vacante, por treinta (30) días al menos anteriores a su nombramiento.

Sec. 207. Compensación. Los miembros del Consejo de Supervisores recibirán compensación establecida por ordenanza. Hasta la fecha de vigor de la primera tal ordenanza subsiguiente a la fecha de vigor de la Carta, los miembros del Consejo de Supervisores continuarán recibiendo la misma compensación provista ahora por ley.

ARTICULO III

**PODERES Y OBLIGACIONES GENERALES DEL
CONSEJO DE SUPERVISORES**

Sec. 301. En General. El Consejo tendrá toda la jurisdicción y autoridad que ahora o en el futuro le concedan la Constitución y las leyes del Estado de California y esta Carta.

Sec. 302. Obligaciones. El Consejo:

(a) Nombrará o dispondrá su nombramiento por ordenanza, de todos los funcionarios del Condado que no sean electivos, y de todos los funcionarios, asistentes, delegados, oficinistas y empleados cuyos nombramientos no se dispongan por esta Carta. El Consejo dispondrá por ordenanza la compensación de los funcionarios electivos y de sus designados, salvo que tal compensación esté fijada de otra forma por esta Carta.

Todos los nombramientos no provistos en esta Carta, excepto los casos de servicio sin clasificar, se harán de acuerdo con el Sistema de Servicio Civil del Condado, como existe ahora o pueda enmendarse por ordenanza.

(CONTINUADO EN LA PAGINA PROXIMA)

CONDADO DE PLACER

PROPOSED CHARTER, CONTINUED

(b) Provide, by ordinance, for the number of assistants, deputies, clerks, and other persons to be employed from time to time in the several offices and institutions of the County, and for their compensation.

(c) Provide, by ordinance, for the creation of offices other than those required by the constitution and laws of the State, and for the appointment of persons to fill the same, and to fix their compensation.

(d) Adopt the annual budget of the County.

(e) Establish a system of priorities and levels of service which are to be provided by the County to the public and among and between departments of the County.

(f) Perform or provide for the performance of such functions as are required by statutes of the State of California.

(g) Take such measures as may be necessary from time to time to implement the provisions of this Charter.

Sec. 303. Other Enumerated Powers. The Board may:

(1) Provide, by ordinance, for the creation of offices, boards and commissions other than those required by the constitution and laws of the State, and for the appointment of persons to fill such offices, boards and commissions, and prescribe their powers, terms of office and duties, and fix their compensation.

(2) Create, abolish, consolidate, segregate, assign or transfer the powers and duties of any appointive office, department, division, board or commission to the extent not in conflict with this Charter.

(3) Consolidate, segregate assign or transfer the powers and duties of any elective office or division thereof to the extent authorized by the Constitution of the State of California and not in conflict with this Charter.

(4) Require periodic or special reports of expenditures and costs of operation, examine all records and accounts and inquire into the conduct of any office, commission, department or other entity to which the County contributes funds.

(5) Require the attendance of any officer or employee of the County at any meeting of the Board for the purpose of information, advice and assistance.

(6) Contract with a city, district, public agency or political subdivision in the County for the performance by County officers or employees of any or all of the functions of such city, district, public agency or political subdivision.

ARTICLE IV
OFFICERS OTHER THAN
SUPERVISORS

Sec. 401. Elective Officers. The elective officers of the County other than members of the Board shall be:

Sheriff - Coroner (consolidated)
District Attorney
Assessor
Superintendent of Schools
Auditor - Controller (consolidated)
County Clerk - County Recorder (consolidated)
Treasurer - Tax Collector (consolidated)

Sec. 402. Appointive Officers. The appointive officers of the County shall be:

A Chief Executive Officer who shall be the county administrator.
County Counsel

Such other officers as now are or which may be hereafter authorized by the general law of the State of California or this Charter and established in pursuance thereof

Sec. 403. Officers, Election and Term. All elected officers of the County shall be nominated and elected in accordance with the general law. The term of office of any such officer shall be as provided in the general law. Removal from office of any elected County officer shall be as provided in the general law.

Sec. 404. Elected Officers, Vacancies. Whenever a vacancy occurs in any elective county office, other than a member of the Board of Supervisors, the Board shall fill such vacancy and the appointee shall hold office until the next general election and until his successor is elected and qualified.

Sec. 405. Tenure of Office. Terms of all officers, employees, and members of boards and commissions, unless otherwise by law or this Charter provided, shall be at the pleasure of the appointing power.

(CONTINUED ON NEXT PAGE)

PROPUESTA CARTA, CONTINUADO

(b) Dispondrá por ordenanza el número de asistentes, delegados, oficinistas y otras personas que hayan de emplearse en las distintas oficinas e instituciones del Condado y sus compensaciones.

(c) Dispondrá por ordenanza la creación de cargo no requeridos por la constitución y las leyes del Estado, el nombramiento de personas para ocupar los mismos y sus compensaciones.

(d) Aprobará el presupuesto anual del Condado.

(e) Establecerá un sistema de prioridades y niveles de servicio que se proveerán por el Condado al público y entre los departamentos del Condado.

(f) Llevará a cabo o dispondrá el llevarse a cabo tales funciones de acuerdo con estatutos del Estado de California.

(g) Tomará las medidas necesarias para el cumplimiento de las disposiciones de esta Carta.

Sec. 303. Otros Poderes Enumerados. El Consejo:

(1) Dispondrá por ordenanza la creación de cargos, consejos y comisiones que no sean requeridos por la constitución y leyes del Estado, el nombramiento de personas para ocupar tales cargos, consejos y comisiones, sus poderes, términos en el cargo y obligaciones, y fijará sus compensaciones.

(2) Crear, abolir, unir, segregar, asignar o transferir los poderes y obligaciones de cualquier persona nombrada para oficina, departamento, división, consejo o comisión en amplitud no en conflicto con esta Carta.

(3) Unir, segregar, asignar o transferir los poderes y obligaciones de cualquier oficina o división ocupada por elección en la amplitud autorizada por la Constitución del Estado de California y no en conflicto con esta Carta.

(4) Requerir informes periódicos o especiales de gastos y costos de operación, examinar todos los archivos y cuentas e investigar la conducta de funcionarios de cualquier oficina, comisión, departamento u otra entidad a la que contribuye el Condado con fondos.

(5) Requerir la asistencia de cualquier funcionario o empleado del Condado a cualquier reunión del Consejo para informar, aconsejar y ayudar.

(6) Contratar con una ciudad, distrito, agencia pública o subdivisión política del Condado para que funcionarios o empleados del Condado lleven a cabo cualquiera o todas las funciones de tal ciudad, distrito, agencia pública o subdivisión política.

ARTICULO IV
OTROS FUNCIONARIOS

Sec. 401. Funcionarios Electivos. Los funcionarios electivos del Condado que no son miembros del Consejo serán:

Sheriff - Pesquisador (unidos)
Fiscal del Distrito
Tasador
Superintendente de Escuelas
Auditor - Interventor (unidos)
Secretario del Condado - Archivero del Condado (unidos)
Tesorero - Recaudador de Impuestos (unidos)

Sec. 402. Funcionarios Nombrados. Los funcionarios nombrados del Condado serán:

Un Funcionario Jefe Ejecutivo que será el administrador del condado
Un Abogado del Condado

Los funcionarios que están ahora o puedan estar en el futuro autorizados por la ley general del Estado de California o por esta Carta y establecidos de acuerdo con ella.

Sec. 403. Funcionarios, Elección y Término. Todos los funcionarios elegidos del Condado serán nominados y elegidos de acuerdo con la ley general. El término del cargo de tales funcionarios será como dispone la ley general. La deposición del cargo de cualquier funcionario elegido del Condado será como disponga la ley general.

Sec. 404. Funcionarios Elegidos, Vacantes. Cuando ocurra una vacante de cualquier cargo electivo del Condado que no sea un miembro del Consejo de Supervisores, el Consejo cubrirá tal vacante y el nombrado ocupará el cargo hasta la próxima elección general y hasta que su sucesor haya sido elegido y aprobado.

Sec. 405. Permanencia en el Cargo. Los términos de todos los funcionarios, empleados y miembros de consejos y comisiones, salvo que se disponga otra cosa por ley o por esta Carta, serán a discreción del poder que los nombra.

(CONTINUADO EN LA PAGINA PROXIMA)

PROPOSED CHARTER, CONTINUED

ARTICLE V
DUTIES OF OFFICERS

Sec. 501. In General. Unless otherwise specified in this Charter, officers of the County other than members of the Board, shall have such duties as shall be prescribed by the Board from time to time and such other duties as shall be required of officers in charter counties by the Constitution and general laws of the State of California.

Sec. 502. County Executive Officer.

(a) Appointment. The County Executive Officer is the chief administrative officer of the County. The County Executive Officer shall be appointed by the Board on the basis of executive and administrative qualifications and experience. The County Executive Officer's performance shall be evaluated by the Board from time to time. The County Executive Officer serves at the Board's pleasure and may be removed by an affirmative vote of three of its members.

(b) General Powers and Duties. The County Executive shall be responsible to the Board of Supervisors for the proper and efficient administration of such of the affairs of the county as are or hereafter may be placed in the provisions of this Charter, or of any ordinance, resolution or order of the Board of Supervisors. He shall also act in an advisory capacity to and with the Board of Supervisors with respect to any necessary or proper coordination of functions of officials and boards not under his jurisdiction or control.

Sec. 503. Other Duties.

(a) Coordinate the work of all offices and departments, both elective and appointive, and devise ways and means to achieve efficiency and economy in all County operations.

(b) Appoint, suspend or remove subject to confirmation by the Board of Supervisors all appointive department heads except the County Counsel. Appointments shall be on the basis of executive and administrative qualifications as determined by screening and selection procedures.

(c) Formulate and present to the Board plans to implement policies and accomplish goals established by the Board.

(d) Provide systematic planning of the budget, recommend long range capital planning, and recommend an annual budget after reviewing requests of all departments and agencies for which the Board is responsible or which request County funds.

(e) Have responsibility for the administration of the budget after its adoption by the Board.

(f) Provide for in-depth analysis and review of all County programs on a regular basis in such manner that the Board may make policy decisions.

(g) Provide and implement systems of adequate checks and controls to safeguard County money and property.

(h) Implement the system of priorities and levels of service established by the Board.

(i) The County Executive Officer shall have such other powers and shall perform such other duties as are consistent with this Charter as prescribed by the Board.

Sec. 504. Board Meetings and Deliberations. The County Executive Officer may attend any meeting of the Board of Supervisors, except that attendance at a meeting at which the County Executive Officer's evaluation or removal is considered shall be at the Board's discretion. The County Executive Officer may participate in discussions of the Board but may not make motions or vote.

Sec. 505. Cooperation with County Executive Officer. All elective officers of the County and all officers appointed by the Board of Supervisors shall cooperate with the County Executive Officer.

Sec. 506. Communication with Employees. A Supervisor shall communicate recommendations or instructions to officers and employees under the County Executive Officer's supervision only through him. This section does not limit a Supervisor's right to obtain information.

Sec. 507. County Counsel. The County Counsel shall be appointed by the Board of Supervisors and serve at its pleasure. Unless his duties are otherwise proscribed or modified by an ordinance of the Board, he shall have all the powers and duties of a County Counsel now or hereafter set forth in the general laws.

ARTICLE VI
GENERAL

Sec. 601. Charter Review. The Board of Supervisors shall convene a Charter review committee within two (2) years of the effective date of this Charter and within five (5) years of the last Charter review thereafter. The committee shall review the Charter and, after at least two (2) public hear-

(CONTINUED ON NEXT PAGE)

PROPUESTA CARTA, CONTINUADO

ARTICULO V
OBLIGACIONES DE LOS FUNCIONARIOS

Sec. 501. En General. Salvo que se especifique otra cosa en esta Carta, los funcionarios del Condado que no sean miembros del Consejo, tendrán las obligaciones prescritas por el Consejo y las requeridas por la Constitución y por las leyes generales del Estado de California para los funcionarios de condados con carta.

Sec. 502. Funcionario Ejecutivo del Condado.

(a) Nombramiento. El Funcionario Ejecutivo del Condado es el funcionario jefe administrativo del Condado. El Funcionario Ejecutivo del Condado será nombrado por el Consejo basándose en sus calificaciones ejecutivas y administrativas y en su experiencia. El ejercicio del cargo del Funcionario Ejecutivo del Condado se evaluará por el Consejo. El Funcionario Ejecutivo del Condado servirá a discreción del Consejo y podrá ser depuesto por voto de tres de sus miembros.

(b) Poderes y Obligaciones Generales. El Ejecutivo del Condado será responsable ante el Consejo de Supervisores de la administración apropiada y eficiente de los asuntos del condado que ahora o en adelante estén en las disposiciones de esta Carta, o de cualquier ordenanza, resolución u orden del Consejo de Supervisores. También actuará como con y para el Consejo de Supervisores con respecto a cualquier coordinación necesaria o apropiada de funciones de funcionarios y consejos que no estén bajo su jurisdicción o control.

Sec. 503. Otras Obligaciones.

(a) Coordinar el trabajo de todas las oficinas y departamentos, tanto electivos como de nombramiento, y planear las formas y medios para lograr eficiencia y economía en todas las operaciones del Condado.

(b) Nombrar, suspender o destituir, sujeto a confirmación por el Consejo de Supervisores, de todos los jefes de departamento de nombramiento, excepto al Abogado del Condado. Los nombramientos serán basados en calificaciones ejecutivas y administrativas determinadas por procedimientos selectivos.

(c) Formular y presentar al Consejo planes para ejecutar normas y lograr metas establecidas por el Consejo.

(d) Proveer una planificación sistemática del presupuesto, recomendar planificaciones de largo alcance y recomendar un presupuesto anual después de revisar las peticiones de todos los departamentos y agencias de los que es responsable el Consejo o que solicitan fondos del Condado.

(e) Tener la responsabilidad de la administración del presupuesto después de su aprobación por el Consejo.

(f) Proveer análisis y revisión profundos de todos los programas del Condado regularmente y de forma que el Consejo pueda tomar decisiones.

(g) Proveer y poner en práctica sistemas de comprobación y control para asegurar los fondos y propiedades del Condado.

(h) Poner en práctica el sistema de prioridades y niveles de servicios establecido por el Consejo.

(i) El Funcionario Ejecutivo del Condado tendrá otras poderes y obligaciones que pueda prescribir el Consejo de acuerdo con esta Carta.

Sec. 504. Reuniones y Deliberaciones del Consejo. El Funcionario Ejecutivo del Condado podrá asistir a cualquier reunión del Consejo de Supervisores, excepto, a discreción del Consejo, cuando se considere la evaluación o deposición del Funcionario Ejecutivo del Condado. El Funcionario Ejecutivo del Condado podrá participar en discusiones del Consejo, pero no podrá presentar mociones ni votar.

Sec. 505. Cooperación con el Funcionario Ejecutivo del Condado. Todos los funcionarios electivos del Condado y todos los funcionarios nombrados por el Consejo de Supervisores cooperarán con el Funcionario Ejecutivo del Condado.

Sec. 506. Comunicación con empleados. Un Supervisor, para dar recomendaciones o instrucciones a funcionarios y empleados bajo la supervisión del Funcionario Ejecutivo del Condado, lo hará solamente a través del mismo. Esta sección no limita el derecho de un Supervisor a obtener información.

Sec. 507. Abogado del Condado. El Abogado del Condado será nombrado y ocupará el cargo a discreción del Consejo de Supervisores. Salvo que se proscriba o modifique de otra forma por ordenanza del Consejo, tendrá todos los poderes y obligaciones de un Abogado de Condado fijadas ahora o en adelante por las leyes generales.

(CONTINUADO EN LA PAGINA PROXIMA)

000007

PROPOSED CHARTER, CONTINUED

ings, make recommendations for amendments to or revisions of this Charter to the Board.

Sec. 602. *Fiscal Provisions.* General law shall govern the assessment of property, the levy and collection of taxes, the adoption of the County budget, and the appropriation, accounting and transfer of funds unless otherwise provided for in this Charter or by ordinance.

Sec. 603. *General Law.* Unless the context of this Charter otherwise requires the terms "general law" or "general laws" as used herein mean the Constitution and statutes of the State of California.

Sec. 604. *Continuation of Laws in Effect.* All laws of the County in effect at the effective date of this Charter shall continue in effect according to their terms unless contrary to the provisions of this Charter, or until repealed or modified pursuant to the authority of this Charter or the general law.

Sec. 605. *Continuation in Office.* Nothing in this Charter shall be construed to affect the tenure of office of any of the elective officers of the county in office at the time this Charter goes into effect, and such officers shall continue to hold their respective offices until the expiration of the term for which they were elected, unless sooner removed in the manner provided by law. But the successors of each and all of such officers shall be elected or appointed as in this Charter provided or as shall be provided pursuant to ordinances enacted under the authority of this Charter.

Sec. 606. *Severability of Provisions.*

If any section, sub-section, sentence, clause or phrase of this Charter is, for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Charter. It being hereby expressly declared that this Charter, and each section, sub-section, sentence, clause and phrase thereof would have been prepared and proposed, adopted, approved and ratified irrespective of the fact that any one or more other sections, sub-sections, sentences, clauses or phrases be declared invalid or unconstitutional.

Sec. 607. *Initiative, Referendum, Recall and Charter Change.* The electors of the County may by majority vote and pursuant to general law:

- (a) Exercise the powers of initiative and referendum,
- (b) Recall an elected officer who has held office for 6 months,
- (c) Amend, revise or repeal this Charter.

PROPUESTA CARTA, CONTINUADO

ARTICULO VI GENERAL

Sec. 601. *Revisión de la Carta.* El Consejo de Supervisores convocará un comité de revisión de la Carta dentro de los dos (2) años de la fecha de vigor de esta Carta y dentro de los cinco (5) años de la última revisión de la Carta después. El comité revisará la Carta y, después al menos de dos (2) audiencias públicas, presentará al Consejo sus recomendaciones de revisión o enmienda de la Carta.

Sec. 602. *Disposiciones Fiscales.* Salvo que se disponga otra cosa por esta Carta o por ordenanza, la evaluación de propiedad, la recaudación y cobro de impuestos, la aprobación del presupuesto del Condado y la asignación, contabilidad y transferencia de fondos se regirán por la ley general.

Sec. 603. *Ley General.* Salvo que el contexto de esta Carta lo requiera de otra forma, los términos "ley general" o "leyes generales", como se usan aquí, significan la Constitución y estatutos del Estado de California.

Sec. 604. *Continuación de Leyes en Vigor.* Todas las leyes del Condado en vigor en la fecha de vigor de esta Carta, continuarán en vigor de acuerdo con sus términos, salvo que sean contrarias a las disposiciones de esta Carta, o hasta que sean derogadas o modificadas de acuerdo con la autoridad de esta Carta o de la ley general.

Sec. 605. *Continuación en el Cargo.* Nada de esta Carta se interpretará de forma que afecte a la permanencia en el cargo de ningún funcionario elegido del condado que ocupe el cargo al entrar en vigor esta Carta, y tales funcionarios continuarán ocupando sus respectivos cargos hasta la expiración de los términos para los que fueron elegidos, salvo que sean depuestos antes en forma prevista por ley. Pero los sucesores de todos y cada uno de tales funcionarios se elegirán o nombrarán como dispone esta Carta o las ordenanzas promulgadas bajo la autoridad de esta Carta.

Sec. 606. *Divisibilidad de las Disposiciones.* Si cualquier sección, sub-sección, sentencia, cláusula o frase de esta Carta es considerada por cualquier razón inválida o inconstitucional, tal invalidez o inconstitucionalidad no afectará la validez o constitucionalidad de las restantes partes de esta Carta. Se declara expresamente por la presente que esta Carta y cada sección, sub-sección, sentencia, cláusula y frase misma habita sido preparada y propuesta, adoptada, aprobada y ratificada indistintamente del hecho de que una o más secciones, sub-secciones, sentencias, cláusulas o frases se declararan inválidas o inconstitucionales.

Sec. 607. *Initiative, Referendum, Destitución y Cambio de la Carta.* Los electores del Condado, por mayoría de votos y de acuerdo con la ley general pueden:

- (a) Ejercer los poderes de iniciativa y referendum,
- (b) Destituir a un funcionario elegido después de ocupar el cargo por 6 meses,
- (c) Enmendar, revisar o derogar esta Carta

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
OF PROPOSED COUNTY CHARTER MEASURE K,
AND OF ALTERNATIVE PROVISION MEASURES L, M, N AND O**

Artículo II, Sección 3 de la Constitución del Estado de California dispone que un condado puede proyectar una carta, que es en realidad una constitución local del condado. Excepto para asuntos regulados por las Constituciones Federal o del Estado, la carta del condado substituye a la ley general del Estado y controla los posibles conflictos entre la ley general estatal y la carta.

Aunque la propuesta carta no cambia algunas áreas de la estructura de gobierno de nuestro condado, presenta algunos cambios importantes en otras áreas de la estructura de nuestro condado.

La carta propuesta cambiaría la forma de substituir a un supervisor en el caso de una vacante en el Consejo. La ley general estatal dice que la substitución la hará el gobernador sin requisito específico de residencia en el condado o distrito. La carta propuesta requeriría que la vacante se cubriera por el voto unánime de los restantes miembros del Consejo de Supervisores. Si no puede obtenerse un voto unánime, la vacante se cubriría por el gobernador. Sin embargo, la persona elegida por el gobernador tendría que tener residencia en el distrito de supervisión en que exista la vacante por treinta días, al menos, antes de su nombramiento.

En la carta propuesta, ciertas funciones, que ahora son opcionales, del Consejo de Supervisores, serían obligatorias. Los cargos del condado tales como Funcionario Jefe Ejecutivo y Abogado del Condado, que ahora son discrecionales, son obligatorios en la carta propuesta.

La Sección 506 de la carta propuesta prohíbe a los supervisores del condado hacer recomendaciones o dar instrucciones directamente a funcionarios o empleados del condado. Tales recomendaciones o instrucciones tendrían que hacerse solamente a través del Funcionario Jefe Ejecutivo. Por ejemplo, si un supervisor del condado recibiera una queja de un ciudadano sobre un problema de inspección de edificio, la carta propuesta no permitiría al supervisor hablar directamente con empleados del departamento de edificación del condado, sino que tendría que informar sobre el problema al Funcionario Ejecutivo del Condado, quien llevaría el problema al departamento de edificación.

La carta propuesta tiene también cuatro disposiciones alternativas para votarse sobre ellas separadamente. La carta sobre la que se va a votar dice que los Supervisores del Condado, el Sheriff-Pesquisidor, el Abogado de Distrito, el Tasador, el Superintendente de Escuelas, el Auditor-Interventor, el Secretario-Archivero y el Tesorero-Recaudador de Impuestos continuarán siendo elegidos como hasta ahora.

La disposición alternativa No. 1, si se aprueba, cambiaría la carta básica propuesta para hacer que los Supervisores del Condado se eligieran por todos los votantes del Condado. Esto es, que todos los votantes del Condado votarían por todos los cinco Supervisores. Sin embargo, para ser elegido para un distrito de supervisión en particular una persona debe ser residente de ese distrito particular.

La disposición alternativa No. 2A, si se aprueba, cambiaría la carta básica propuesta para hacer que el Secretario-Archivero del Condado sea un cargo de nombramiento en vez de elección. El nombramiento se haría por el Funcionario Jefe Ejecutivo del Condado.

La disposición alternativa No. 2B, si se aprueba, cambiaría la carta básica propuesta para hacer que el Auditor-Interventor del Condado sea un cargo de nombramiento en vez de elección. El nombramiento se haría por el Funcionario Jefe Ejecutivo del Condado.

La disposición alternativa No. 2C, si se aprueba, cambiaría la carta básica propuesta para hacer que el Tesorero-Recaudador de Impuestos del Condado sea un cargo de nombramiento en vez de elección. El nombramiento se haría por el Funcionario Jefe Ejecutivo del Condado.

Si la carta propuesta se aprueba por los votantes, puede enmendarse o derogarse después por una mayoría de los electores que voten en una elección general o especial.

**ANÁLISIS IMPARCIAL POR EL ABOGADO DEL CONDADO
DE LA PROPUESTA CARTA DEL CONDADO, MEDIDA K
Y DE DISPOSICIONES ALTERNATIVAS, MEDIDAS L, M, N y O**

La Sección 3 del Artículo II de la Constitución del Estado de California dispone que un condado pueda proyectar una carta, que es en realidad una constitución local del condado. Excepto para asuntos regulados por las Constituciones Federal o del Estado, la carta del condado substituye a la ley general del Estado y controla los posibles conflictos entre la ley general estatal y la carta.

Aunque la carta propuesta no cambia algunas áreas de la estructura de gobierno de nuestro condado, presenta algunos cambios importantes en otras áreas de la estructura de nuestro condado.

La carta propuesta cambiaría la forma de substituir a un supervisor en el caso de una vacante en el Consejo. La ley general estatal dice que la substitución la hará el gobernador sin requisito específico de residencia en el condado o distrito. La carta propuesta requeriría que la vacante se cubriera por el voto unánime de los restantes miembros del Consejo de Supervisores. Si no puede obtenerse un voto unánime, la vacante se cubriría por el gobernador. Sin embargo, la persona elegida por el gobernador tendría que tener residencia en el distrito de supervisión en que exista la vacante por treinta días, al menos, antes de su nombramiento.

En la carta propuesta, ciertas funciones, que ahora son opcionales, del Consejo de Supervisores, serían obligatorias. Los cargos del condado tales como Funcionario Jefe Ejecutivo y Abogado del Condado, que ahora son discrecionales, son obligatorios en la carta propuesta.

La Sección 506 de la carta propuesta prohíbe a los supervisores del condado hacer recomendaciones o dar instrucciones directamente a funcionarios o empleados del condado. Tales recomendaciones o instrucciones tendrían que hacerse solamente a través del Funcionario Jefe Ejecutivo. Por ejemplo, si un supervisor del condado recibiera una queja de un ciudadano sobre un problema de inspección de edificio, la carta propuesta no permitiría al supervisor hablar directamente con empleados del departamento de edificación del condado, sino que tendría que informar sobre el problema al Funcionario Ejecutivo del Condado, quien llevaría el problema al departamento de edificación.

La carta propuesta tiene también cuatro disposiciones alternativas para votarse sobre ellas separadamente. La carta sobre la que se va a votar dice que los Supervisores del Condado, el Sheriff-Pesquisidor, el Abogado de Distrito, el Tasador, el Superintendente de Escuelas, el Auditor-Interventor, el Secretario-Archivero y el Tesorero-Recaudador de Impuestos continuarán siendo elegidos como hasta ahora.

La disposición alternativa No. 1, si se aprueba, cambiaría la carta básica propuesta para hacer que los Supervisores del Condado se eligieran por todos los votantes del Condado. Esto es, que todos los votantes del Condado votarían por todos los cinco Supervisores. Sin embargo, para ser elegido para un distrito de supervisión en particular una persona debe ser residente de ese distrito particular.

La disposición alternativa No. 2A, si se aprueba, cambiaría la carta básica propuesta para hacer que el Secretario-Archivero del Condado sea un cargo de nombramiento en vez de elección. El nombramiento se haría por el Funcionario Jefe Ejecutivo del Condado.

La disposición alternativa No. 2B, si se aprueba, cambiaría la carta básica propuesta para hacer que el Auditor-Interventor del Condado sea un cargo de nombramiento en vez de elección. El nombramiento se haría por el Funcionario Jefe Ejecutivo del Condado.

La disposición alternativa No. 2C, si se aprueba, cambiaría la carta básica propuesta para hacer que el Tesorero-Recaudador de Impuestos del Condado sea un cargo de nombramiento en vez de elección. El nombramiento se haría por el Funcionario Jefe Ejecutivo del Condado.

Si la carta propuesta se aprueba por los votantes, puede enmendarse o derogarse después por una mayoría de los electores que voten en una elección general o especial.

ARGUMENT IN FAVOR OF MEASURE K

A vote for the proposed Charter is a vote for representative form of government envisioned by our nation's founding fathers. Through the home rule of a charter (county constitution) the people reassume powers now held by the State Legislature. Once adopted, a charter becomes a living blueprint for government, allowing future improvements in structure and function of our county government.

Under present General Law status, Placer County government structure is determined by the State Legislature and changes or amendments can be made only by that body. A charter county can adopt a governing structure best suited to its individual needs, and changes or amendments can be made by the county voters.

In November 1979, voters of Placer County voted for formation of a Charter Commission, to prepare and submit for voter approval, a County Charter. After nine months of intense study, plus numerous public meetings, the Commission has completed its task and submits the proposed Charter for voter consideration.

The proposed charter is basically simple in that it doesn't include major changes in the present organization of Placer County government except the establishment of the County Executive Officer position, with defined duties, responsibilities and authority. This position has existed in the past by ordinance with duties and authority not clearly defined as in this charter. The charter will continue presently elected and appointed positions. In keeping with democratic tradition, proposed changes evoking strong opinions have been isolated as separate measures for voters decision as to inclusion or rejection.

Placer County is geographically large but numerically small. It has it's unique quality, charm, and life style, and should not be restricted to the same organization as larger counties. The proposed charter can be updated by vote of the people.

We urge a "YES" vote for a Placer County Charter.

PLACER COUNTY CHARTER COMMISSION
s/Arthur H. Cox, Chairman

NO REBUTTAL TO THIS ARGUMENT WAS SUBMITTED

ARGUMENT AGAINST MEASURE K

This Charter, as written, presents nothing for the people that is not permissible under general law, even the detailed appointment of a County Executive, except that it opens the door to take away the rights of the people to elect those officials who shall serve us, the public.

State laws shall still govern the conduct of the County.

This Charter does, however, take away the rights of the elected Board of Supervisors to appoint public officials, another loss of control by the elective process. Paragraph (b) of Sec. 603, Article V give to the County Executive all appointive and removal powers.

I urge all voters to vote NO on this Charter and protect our rights in expressing, through the voting process, who shall be our public officials.

s/Maurine I. Dobbas
Retired-Placer County
Clerk/Recorder

ARGUMENTO EN FAVOR DE LA MEDIDA K

Un voto en favor de la Carta propuesta es un voto en favor de la forma representativa de gobierno envisionsada por los fundadores de nuestra nación. A través del control local de una carta (constitución del condado), el pueblo reasume los poderes que ahora están en la Legislatura del Estado. Una vez adoptada, una carta es un programa vivo de gobierno, que permite mejoras futuras en la estructura y función del gobierno de nuestro condado.

Bajo la condición actual de Ley General, la estructura de gobierno del Condado de Placer se determina por la Legislatura del Estado y solamente ese cuerpo puede hacer cambios o enmiendas. Un condado con carta puede adoptar la estructura de gobierno que más le conviene a sus necesidades individuales y los cambios o enmiendas pueden hacerse por los votantes del condado.

En noviembre de 1979, los votantes del Condado de Placer votaron en favor de la formación de una Comisión de la Carta, para preparar y someter a la aprobación de los votantes una Carta del Condado. Después de nueve meses de intenso estudio, más numerosas reuniones públicas, la Comisión ha completado su trabajo y somete la Carta propuesta a la consideración de los votantes.

La propuesta carta es básicamente simple y no incluye grandes cambios en la actual organización del gobierno del Condado de Placer, excepto el establecimiento del puesto de Funcionario Ejecutivo del Condado, con obligaciones, responsabilidades y autoridad definidas. Este puesto existió en el pasado por ordenanza, con obligaciones y autoridad no tan claramente definidas como en esta carta. La carta mantiene los puestos actualmente elegidos y nombrados. Manteniendo la tradición democrática, los cambios propuestos que suponen grandes diferencias de opinión se han separado en medidas especiales para decisión de los votantes sobre su inclusión o rechazo.

El Condado de Placer es grande geográficamente pero pequeño en número. Tiene caracteres, encanto y estilo de vida únicos y no debe estar bajo el mismo tipo de organización que los condados grandes. La carta propuesta puede ponerse al día por el voto del pueblo.

Podemos un voto "SI" en favor de la Carta del Condado de Placer.

COMISION DE LA CARTA DEL CONDA-
DO DE PLACER
//Arthur H. Cox, Presidente

NO SE PRESENTO REFUTACION A ESTE ARGUMENTO

ARGUMENTO CONTRA LA MEDIDA K

Esta Carta, según está escrita, no presenta nada al pueblo que no lo permita la ley general, incluso el nombramiento detallado de un Ejecutivo del Condado, excepto que abre la puerta para quitar los derechos del pueblo a elegir a los funcionarios que nos servirán.

Las leyes del Estado seguirán gobernando la dirección del Condado.

Esta Carta, sin embargo, elimina los derechos del elegido Consejo de Supervisores a nombrar los funcionarios públicos, otra pérdida de control del proceso electivo. Párrafo (b) de la Sec. 603, Artículo V, que da al Ejecutivo del Condado los poderes de nombramiento y destitución.

Pido a todos los votantes que voten NO sobre esta Carta y protejan nuestro derecho de expresar, por el procedimiento de voto, quiénes serán nuestros funcionarios públicos.

//Maurine I. Dobbas
Secretaria/Archivera Retirada
del Condado de Placer

000000

REBUTTAL TO ARGUMENT AGAINST MEASURE K

The argument against the proposed charter represents the attitude of those who don't want the voters to make decisions as to how our County Government shall be organized, but simply want to sit back and allow the state to continue State Government control under general law.

The charter will allow local government and County citizens a range of choices in structuring government organization. The charter establishes the position of County Executive Officer. The Board of Supervisors must appoint a person to that position, and thus provide a professional approach to County Administrative affairs. The Board of Supervisors should set policy for the County, but daily administrative management should be headed by a County Executive Officer, specially trained by education and experience to provide administrative direction over County affairs. Members of the Board of Supervisors are neither, trained, qualified, or have time to handle administrative duties. The 1978-79 and 79-80 Grand Juries urged the Board of Supervisors to establish the County Executive system of administration.

The ballot argument against the Charter says the Charter takes away the right of the Board of Supervisors to appoint public officials. The argument quotes Article V, Section 503 (b), but conveniently leaves out the key words, "Subject to Confirmation by the Board of Supervisors". The proposed charter clearly leaves the final control of confirming appointments to the Board of Supervisors.

The Charter Commission urges your YES vote on PROPOSITION K, the Proposed Home Rule County Charter.

Placer County Charter Commission
s/Arthur H. Cox, Chairman

REFUTACION AL ARGUMENTO EN CONTRA DE LA MEDIDA K

El argumento contra la carta propuesta representa la actitud de los que no quieren que los votantes tomen decisiones sobre como debe ser organizado el Gobierno del Condado, sino simplemente quieren sentarse y permitir que el Estado continúe su control bajo la ley general.

La carta permitirá al gobierno local y a los ciudadanos del Condado una serie de posibilidades de estructuración de la organización del gobierno. La carta establece el cargo de funcionario Ejecutivo del Condado. El Consejo de Supervisores debe nombrar a una persona para ese cargo, y así lograr un enfoque profesional de los asuntos administrativos del Condado. El Consejo de Supervisores debe fijar la política del Condado, pero la dirección administrativa diaria la lleva un Funcionario Ejecutivo del Condado, especialmente entrenado por educación y experiencia para dar una dirección administrativa a los asuntos del Condado. Los miembros del Consejo de Supervisores ni tienen entrenamiento, ni están calificados, ni tienen tiempo para los asuntos administrativos. Los Grandes Jurados de 1978-79 y 79-80 pidieron al Consejo de Supervisores que se estableciera un sistema de administración Ejecutivo del Condado.

El argumento contra la Carta dice que la Carta elimina el derecho del Consejo de Supervisores de nombrar funcionarios públicos. El argumento cita la Sección 503 (b) del Artículo V, pero deja sin citar las palabras esenciales, "Sujeto a la Confirmación por el Consejo de Supervisores". La propuesta carta deja claramente el control final de con confirmar los nombramientos al Consejo de Supervisores.

La Comisión de la Carta pide su voto SI sobre la PROPOSICION K, la Propuesta Carta del Condado.

Comisión de la Carta del
Condado de Placer
s/Arthur H. Cox, Presidente

PROPOSED COUNTY CHARTER ALTERNATIVE PROVISION, MEASURE L

Alternative Proposition No. 1

That Sec. 203 of the Charter shall read as follows:

Sec. 203. Supervisors, Election at Large, District Residency Required. Each member of the Board of Supervisors shall be a resident of one of the five (5) supervisorial districts. Each member shall have been a resident of the district he seeks to represent for at least thirty (30) days immediately preceding the deadline for filing nomination papers for the office of Supervisor and shall reside in the district during his incumbency. Members of the Board of Supervisors shall be elected by the voters of the County at large.

PROPUESTA DISPOSICION ALTERNATIVA DE LA CARTA DEL CONDADO, MEDIDA L

Proposición Alternativa No. 1

Que la Sec. 203 de la Carta diga lo siguiente:

Sec. 203. Supervisores, Elección en General, Requisito de Residencia en el Distrito. Cada miembro del Consejo de Supervisores será residente de uno de los cinco (5) distritos de supervisión. Cada miembro habrá sido residente del distrito que trata de representar por, al menos, treinta (30) días inmediatamente anteriores al límite del plazo de presentación de los documentos de nominación para el cargo de Supervisor y residirá en el distrito durante la ocupación del cargo. Los miembros del Consejo de Supervisores serán elegidos por los votantes del Condado en general.

000001

EXHIBIT E

TYPE OF ELECTION

GENERAL

DATE OF ELECTION

Nov. 4, 1980

CANDIDATES

CANDIDATES

CANDIDATES

CANDIDATES

CANDIDATES

CANDIDATES

OUTCOME (STVC)

MEASURE(S)

Text:

OUTCOME (STVC)

COUNTY		
PROPOSED COUNTY CHARTER ADOPTION MEASURE K		
K Shall the proposed charter of the County of Placer be adopted?	YES	23,247
	NO	21,613
PROPOSED COUNTY CHARTER ALTERNATIVE PROVISION, MEASURE L		
L Shall the proposed alternative providing for the election of County Supervisors at large, but requiring residency in the district the candidate will represent, be adopted?	YES	27,041
	NO	18,441
PROPOSED COUNTY CHARTER ALTERNATIVE PROVISION, MEASURE M		
M Shall the proposed alternative providing for the appointment, rather than the election of the County Clerk-Recorder, be adopted?	YES	9,215
	NO	36,104
PROPOSED COUNTY CHARTER ALTERNATIVE PROVISION, MEASURE N		
N Shall the proposed alternative providing for the appointment, rather than the election of the County Auditor-Controller, be adopted?	YES	7,913
	NO	37,336
PROPOSED COUNTY CHARTER ALTERNATIVE PROVISION, MEASURE O		
O Shall the proposed alternative providing for the appointment, rather than the election of the County Treasurer-Tax Collector, be adopted?	YES	7,657
	NO	37,774

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF FRESNO

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is: **5250 North Palm Ave, Suite 310, Fresno, California 93704.**

On **February 2, 2022**, I served the foregoing document(s) described as **DECLARATION OF RYAN RONCO IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE** in the manner checked below on all interested parties in this action addressed as follows:

Mr. David E. Mastagni
Mastagni Holstedt, APC
1912 I Street
Sacramento, California 95811
email: davidm@mastagni.com
tdavies-mahaffey@mastagni.com

- ☒ **(BY U.S. MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Fresno, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on **February 2, 2022**, at Fresno, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Constance Dewey

Exhibit 8

By: Laurel L Sanders
Deputy Clerk

Michael D. Youril, Bar No. 285591
myouril@lcwlegal.com
Lars T. Reed, Bar No. 318807
lreed@lcwlegal.com
LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
400 Capitol Mall, Suite 1260
Sacramento, CA 95814
Telephone: 916-584-7000
Facsimile: 916-584-7083

Attorneys for Respondent COUNTY OF PLACER

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF PLACER

PLACER COUNTY DEPUTY
SHERIFFS' ASSOCIATION and NOAH
FREDERITO,

Petitioners,

v.

COUNTY OF PLACER,

Respondent.

Case No.: S-CV-0047770

Complaint Filed: December 21, 2021

**NOTICE OF NON-STIPULATION TO HAVE
COUNTY'S DEMURRER AND MOTION TO
STRIKE HEARD BY COMMISSIONER**

Date: March 3, 2022
Time: 8:30 a.m.
Dept.: 42

(*Exempt from filing fees pursuant to Gov.
Code, § 6103.)

TO THE COURT, AND TO PETITIONERS AND THEIR ATTORNEY OF RECORD:

Pursuant to Local Rule 20.2.B, Respondent County of Placer ("County") hereby gives notice that the County does not stipulate to having the County's Demurrer to the First Amended Petition, or the County's Motion to Strike Portions of the First Amended Petition, heard by a Commissioner. The County requests that both motions be heard by the assigned judge.

Dated: February 11, 2022

LIEBERT CASSIDY WHITMORE

By:



Michael D. Youril
Lars T. Reed
Attorneys for Respondent
COUNTY OF PLACER

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF PLACER

I am employed in the County of Sacramento, State of California. I am over the age of 18 and not a party to the within action; my business address is: **400 Capitol Mall, Suite 1260, Sacramento, CA 95814.**

On **February 11, 2022**, I served the foregoing document(s) described as **NOTICE OF NON-STIPULATION TO HAVE COUNTY'S DEMURRER AND MOTION TO STRIKE HEARD BY COMMISSIONER** in the manner checked below on all interested parties in this action addressed as follows:

Mr. David Mastagni
Ms. Taylor Davies-Mahaffey
Mastagni Holstedt, A.P.C.
1912 I Street
Sacramento, CA 95811

email: davidm@mastagni.com
tdavies-mahaffey@mastagni.com

- ☒ **(BY U.S. MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Sacramento, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on **February 11, 2022**, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

/s/ Lauren Sossaman
Lauren Sossaman

Exhibit 9

1 DAVID E. MASTAGNI, ESQ. (SBN 204244)
TAYLOR DAVIES-MAHAFFEY, ESQ. (SBN 327673)

2 **MASTAGNI HOLSTEDT**

3 A Professional Corporation

1912 "I" Street

4 Sacramento, California 95811

Telephone: (916) 446-4692

5 Facsimile: (916) 447-4614

6 Attorneys for Petitioners

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF PLACER

10
11 PLACER COUNTY DEPUTY SHERIFFS') Case No.: S-CV-0047770
ASSOCIATION and NOAH FREDERITO,)

12)
13) Petitioners,
14) vs.

COUNTY OF PLACER,

15)
16) Respondent.
17)

) **NOTICE OF ERRATA RE AMENDED**
) **VERIFIED PETITION FOR WRIT OF**
) **MANDATE AND COMPLAINT FOR**
) **DECLARATORY RELIEF**

18 PLEASE TAKE NOTICE THAT Petitioners' Amended Verified Petition For Writ Of
19 Mandate And Complaint For Declaratory Relief filed on January 21, 2022 in this action
20 inadvertently attached the incorrect Exhibit C. This Exhibit is incorrect and should be replaced
21 with the attached Exhibit C. Accordingly, Petitioners submit this notice of errata correcting the
22 Exhibit C error.

23
24 Dated: February 17, 2022

Respectfully Submitted,

25 **MASTAGNI HOLSTEDT, A.P.C.**

26 

27 DAVID E. MASTAGNI
Attorneys for Petitioners
28

EXHIBIT C

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of:

**Resolution Ordering Ballot Measure To
Repeal Measure F - Sheriff Pay
Ordinance Initiative to be placed on the
Ballot of Statewide Primary Election to
be Held June 6, 2006.**

Resol. No: 2006-30

Ord. No: _____

First Reading: _____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held February 7, 2006 by the following vote on roll call:

Ayes: WEYGANDT, HOLMES, KRANZ, SANTUCCI

Noes: NONE

Absent: GAINES

Signed and approved by me after its passage.



CHAIRMAN, BOARD OF SUPERVISORS

Attest:

Clerk of said Board



**THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF
CALIFORNIA, DOES HEREBY RESOLVE THAT:**

WHEREAS, in November of 1976, the voters of Placer County approved an initiative identified as Measure F that set the salaries for sworn law enforcement officers employed with the Placer County Sheriff's Department based upon a formula set in the initiative; and

WHEREAS, Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative is a codified restatement of the ordinance adopted by the voters in the general election in November, 1976, and reads as follows:

3.12.040 *Salaries--Placer County sheriff's ordinance initiative.*

A. *The board of supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County sheriff's office, El Dorado County sheriff's office and Sacramento County sheriff's office for each class of position employ said agencies.*

B. *Effective January 1, 1977, and effective January 1st of each year thereafter the board of supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first period following January shall fix the average salary for each class of position the Placer County sheriff's office at a level equal to the average of the salary for the comparable positions in the Nevada County sheriff's office, El Dorado County sheriff's office and the Sacramento County sheriff's office.*

C. *As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:*

1. *Undersheriff, inspector, corporal, captain, sergeant, deputy, lieutenant.*

D. *The provisions of this chapter shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are elected by popular vote, and*

WHEREAS, the Placer County Deputy's Association has requested that the Placer County Board of Supervisors place on the June 6, 2006 primary election ballot a measure to repeal this initiative; thereby removing the section quoted above from the Placer County Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California, that:

1. The Board of Supervisors proposes a ballot measure to repeal Measure F, currently designated as Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative;
2. The Board of Supervisors orders that the following question be placed as a County measure on the ballot of the Statewide Primary Election to be held June 6, 2006:

MEASURE _____

Under a current Placer County ordinance enacted by a ballot measure in 1976, Placer County Deputy Sheriffs cannot negotiate salaries. Under that ordinance, salaries are fixed according to a formula using the average salaries of similar positions in designated counties.

Shall this ordinance be repealed thereby allowing Placer County Deputy Sheriffs to negotiate their own salaries?

YES _____

NO _____

COUNTY OF PLACER
BOARD OF SUPERVISORS
TUESDAY, FEBRUARY 7, 2006
SUMMARY ACTION
9:00 a.m.

Bill Santucci, District 1, Chairman

Robert Weygandt, District 2,

Jim Holmes, District 3

Edward "Ted" M. Gaines, District 4

Bruce Kranz, District 5, Vice Chair

Thomas Miller, County Executive

Anthony J. La Bouff, County Counsel

Rich Colwell, Chief Assistant County Executive

Mike Boyle, Assistant County Executive

Holly Heinzen, Assistant County Executive

Ann Holman, Clerk of the Board

County Administrative Center, 175 Fulweiler Avenue, Auburn, CA 95603

9:00 a.m.

FLAG SALUTE – Led by Rich Colwell, Chief Assistant County Executive.

STATEMENT OF MEETING PROCEDURES - Read by Clerk.

PUBLIC COMMENT - Rosemary Frieborn, Friends of Placer County Animal Shelters, questioned why Animal Control staff did not attend the seminar that was funded by her organization. She asked the Board to appropriate emergency funding to send staff to upcoming seminars. Michael Murphy, Libertarian Party, requested a spreadsheet of issues and how each supervisor voted be provided on the County website. Kathy Martinis, Auditor-Controller, provided the Placer County 2005 Citizens' Report, a summary of financial and economic conditions in Placer County. Michelle Buhan, Friends of Placer County Animal Shelters, asked Supervisor Holmes if changes had been made to the recording of animal services. Supervisor Holmes advised County Executive Office has established a committee to look into that. Rich Colwell, Chief Assistant County Executive, stated the County Executive has set in place a comprehensive effort to review management of Animal Control and discussions with various jurisdictions and non-profit organizations. He said staff did not attend the seminar because management did not have enough time to review issues of due diligence, liability, staff expenses and shift coverage.

SUPERVISOR'S COMMITTEE REPORTS – Chairman Santucci and Supervisor Holmes thanked Commander Rick Ward, Newcastle California Highway Patrol, for inviting the Supervisors to participate in a patrol car or airplane ride along.

CONSENT AGENDA - Item #13 moved for discussion. Consent agenda approved as amended with action as indicated. MOTION Holmes/Weygandt/Unanimous VOTE 4:0 (Gaines absent)

1. **ORDINANCES** – Second reading:

- a. Personnel/Civil Service Commission – Ordinance 5396-B adopted amending Chapter 3, affecting classification, compensation and allocation of position for Community Development Resource Agency/Building Department, creating the position of Building Division Manager and to reclassify one Supervising Building Inspector position to a Building Division Manager.

2. **BOARD OF SUPERVISORS** - Approved minutes of November 29, December 6, and 13, 2005.

3. **CLAIMS AGAINST THE COUNTY** – Rejected the following claims, as recommended by County Counsel:

- a. 05-077, Jackson, Judi, \$25,000 + (Personal Injury).
- b. 06-006, Jackson, Judi, \$25,000 + (Personal Injury).

4. **COMMITTEES& COMMISSIONS:**

- a. In-Home Supportive Services Advisory Committee – Approved appointment of Eula Marshall to Seat #2 (Service Recipient), Diane Lester to Seat #5 (Service Recipient) and Karen Boal to Seat #9 (Service Recipient), as requested by the In-Home Supportive Services Advisory Committee.
- b. Newcastle, Rocklin, Gold Hill Cemetery District – Approved reappointment of Gordon Takemoto to Seat 3, Wayne W. "Wes" Naylor to Seat 4 and Gene D. Gieck to Seat 5.
- c. Sheridan Municipal Advisory Council - Approved appointment of Adam Carpineta to Seat 2, as requested by Supervisor Weygandt.
- d. Solid Waste Independent Hearing Panel - Approved appointment of Gerald Brentnall to Seat 3 (At-Large).
- e. Tahoe Cemetery District – Approved reappointment of James R. O'Brien to Seat 1, Robert B. Scoville to Seat 2, Steve M. Glazer to Seat 4 and Randal Pomin to Seat 5 and appointment of Donald A. Hale to Seat 3, as requested by Supervisor Kranz.

5. COMMUNITY DEVELOPMENT RESOURCE AGENCY/TERRACINA PLANNED DEVELOPMENT TRACT #928 – Approved the Final Map, Subdivision Improvement Agreement and authorized the recording.

6. COUNTY EXECUTIVE:

- a. Ordinance introduced, first reading waived, amending Chapter 3, Section 3.12.030, Unclassified Service, Schedule of Classifications, Salary Plan and Grade Unclassified Service, relating to the Auditor-Controller Department, Managing Accountant Auditor positions.
- b. Authorized the travel of Supervisors Holmes, Santucci and Weygandt to Washington DC from February 14 to 17, 2006, to meet with elected or appointed officials of the United States to discuss legislative and regulatory issues affecting the County, and over which the Federal officials have jurisdiction.
- c. Approved a merit increase for Mary George, Assistant Director of Library Services, from Step 2 to Step 3, retroactive to January 21, 2006.

7. COUNTY EXECUTIVE/EMERGENCY SERVICES:

- a. Placer Hills Fire Protection District – Resolution 2006-24 adopted approving the FY 2005/06 Capital Facilities Plan update, retaining its existing mitigation fee schedule.
- b. South Placer Fire Protection District – Resolution 2006-25 adopted approving the 2005/06 Capital Facilities Plan update, reflecting a 4.3% Consumer Price Index base increase in Mitigation Fees.

8. FACILITY SERVICES:

- a. Historic Courthouse Fire Alarm System, Project #4754 – Accepted a progress report and approved continuation of the project, pursuant to Section 22050 of the Public Contract Code and Section 1.3 (m) of the Purchasing Policy Manual.
- b. Sewer Maintenance District #1 – Resolution of Intention 2006-26 adopted setting the time and date to hold a public hearing to consider the annexation of property owned by Dunmore Communities, APN 052-080-012-510, into the district. Subject property is located on New Airport Road, Auburn.

9. HEALTH & HUMAN SERVICES/ENVIRONMENTAL HEALTH – Approved a budget revision, in the amount of \$11,500, for Animal Services licensing, dispatch and adoption software and adding them to the Master Fixed Asset List.

10. PERSONNEL:

- a. Ordinance introduced, first reading waived, amending Chapter 3, Section 3.12.010, Appendices DSAS-3, DSAN-4, and MGTS-9, relating to the salaries for the classifications covered by Proposition F and other associated law enforcement classifications, effective February 03, 2006, 5:01 p.m.
- b. Approved the Placer County Equal Employment Opportunity Program Plan from January 01, 2006 through December 31, 2006.

11. PROCUREMENT SERVICES – Authorized the Purchasing Manager to sign the following:

- a. Bid #9520, Mobile Data Computers/Sheriff – Awarded to Compucom Systems, Inc., in the amount of \$82,575.16.

12. PUBLIC WORKS/PLACER HILLS FIRE PROTECTION DISTRICT – Resolution 2006-27 adopted approving and authorizing the Chairman to execute a Quitclaim Deed with the Placer Hills Fire Protection District, quitclaiming an un-used portion of right-of-way in front of the fire station. Subject property is located on Combie Road at Placer Hills Road in Meadow Vista.

13. **MOVED FOR DISCUSSION/REVENUE SHARING - Approve appropriation of \$500 in Revenue Sharing monies to the Lincoln Rotary Club for a training program, as requested by Supervisor Weygandt.**

14. TREASURER/TAX COLLECTOR – Resolution 2006-28 adopted delegating the authority to invest certain funds under the control of the Board of Supervisors to the Treasurer.

***** End of Consent Agenda*****

The following item was moved for discussion:

13. REVENUE SHARING - Approved appropriation of \$500 in Revenue Sharing monies to the Lincoln Rotary Club for a training program, as requested by Supervisor Weygandt.

MOTION Holmes/Weygandt VOTE 3:1:0 (Kranz No, Gaines absent)

DEPARTMENT ITEMS TO BE DISCUSSED BEFORE NOON, AS TIME ALLOWS

DEPARTMENT ITEMS:

15. **COUNTY EXECUTIVE/EMERGENCY SERVICES** – Ordinance introduced, first reading waived, amending Chapter 2, Articles 2.16 and 2.88 to reflect (1) the County Executive Officer as the Director of Emergency Services, (2) the County Executive Officer as the Chairman of the

Disaster Council, (3) granting the Board authority to appoint other members of the Disaster Council, and (4) amending Chapter 3, Article 3.08, using the term "Emergency Services" in lieu of "Civil Defense."

MOTION Weygandt/Holmes/Unanimous VOTE 4:0 (Gaines absent)

16. HEALTH & HUMAN SERVICES:

- a. **Children's System of Care** - Approved agreement with Gerald Brody, M.D., from January 1, 2006 through December 31, 2006, in the amount of \$123,048.19, for psychiatric services as a contract employee. MOTION Kranz/Holmes/Unanimous VOTE 4:0 (Gaines absent)

- b. **Community Health** - Adopted the California Department of Health Services' recommendation to expand managed care to Placer County by merging into the existing Sacramento Geographic Managed Care Model, and authorized the Chairman to sign and submit the letter of support.

MOTION Kranz/Holmes/Unanimous VOTE 4:0 (Gaines absent)

- c. **Environmental Health** - Approved contracts with the City of Colfax, City of Auburn, City of Rocklin and City of Lincoln, for the provision of animal control services from July 1, 2005 through June 30, 2008, and authorized the Health and Human Services Director to execute amendments.

MOTION Holmes/Weygandt/Unanimous VOTE 4:0 (Gaines absent)

17. COUNTY COUNSEL/CLOSED SESSION REPORT:

(A) §54956.9 - CONFERENCE WITH LEGAL COUNSEL

(1) Existing Litigation:

- (a) Cross v. County of Placer, Placer County Superior Court Case No. SCV 27628 – ***The Board was advised of the successful completion of the case with the granting of a motion for summary judgment in favor of the County and the named defendants.***
- (b) City of Rocklin v. Yee, Placer County Superior Court Case No. SCV 18727 – ***The Board gave direction.***
- (c) City of Rocklin v. Snecchi, Placer County Superior Court Case No.: SCV 18721 – ***The Board gave direction.***

- (d) Sierra Club, et al. vs. County of Placer/U.S. Home Corporation, et al. vs. Town of Loomis vs. County of Placer/Bickford Holdings, et al., Third District Court of Appeal Case No.: C047630 – ***The Board received a status report and gave direction to Counsel.***

(B) §54957.6 - CONFERENCE WITH LABOR NEGOTIATOR – *No discussion.*

Agency negotiator: CEO/Personnel Director.

Employee organization: PPEO/DSA.

9:30 a.m.

18. **PLANNING BUSHNELL NURSERY REZONING AND APPEAL OF MINOR USE PERMIT (PREAT20040129) MITIGATED NEGATIVE DECLARATION** – Public hearing to consider an appeal from Dave Bushnell of specific conditions of approval for a Minor Use Permit for a retail nursery, including retail sales, and an accessory landscape installation business. The Board will also consider a rezoning request from RS-B-20 (Single Family Residential, Building Site size 20,000 square feet) to F-Dc-B20 (Farm, Building size 20,000 square feet, Design Corridor), for the 15.7 acre project site. The property (APN 048-081-035, 048-081-054, 048-081-055, and 048-081-058) is located at 5255 Douglas Boulevard, approximately 1.5 miles east of Sierra College Boulevard, and is currently zoned RS-B-20 (Single Family Residential, Building Site size 20,000 square feet).

MOTION Holmes/Weygandt/Unanimous VOTE 4:0 (Gaines absent), to continue to February 21, 2006 at 9:30 a.m.

10:00 a.m.

19. **BOARD OF SUPERVISORS** – Presentation by Diane Bras, Family Law Facilitator, regarding the Placer County Superior Court Legal Help Center.

10:15 a.m.

20. **FACILITY SERVICES/SEWER MAINTENANCE DISTRICT #1** - Public hearing closed. Resolution 2006-29 adopted annexing the Glenn Templeton property, APN 076-271-009, into the district. Subject property is located on Stanley Drive, Auburn.

MOTION Weygandt/Holmes/Unanimous VOTE 4:0 (Gaines absent)

10:30 a.m.

21. **COUNTY EXECUTIVE** – Resolution 2006-30 adopted authorizing a ballot measure for the June 6, 2006 primary election asking the electorate to consider repeal of Measure F affecting the salaries of Placer County Deputy Sheriffs. **MOTION Kranz/Weygandt/Unanimous VOTE 4:0 (Gaines absent)**

10:45 a.m.

22. **COUNTY EXECUTIVE/PLACER CONSOLIDATED FIRE PROTECTION DISTRICT** – Resolution 2006-31 adopted integrating the Placer Consolidated Fire Protection District fire

protection responsibilities into Placer County Fire upon dissolution of the District. In addition, directed County staff to bring forward establishment of County Service Area #28, Zone of Benefit 193, concurrent with the District's dissolution to fund fire protection operations and capital facilities mitigation within the District area. MOTION Holmes/Weygandt/Unanimous VOTE 4:0 (Gaines absent)

11:00 a.m.

23. **PLANNING/APPEAL PENRYN 76 SIGN PERMIT & VARIANCE (PSIN20040783/PVAA20050302).** The property (APN 043-060-063 and 043-060-064) is comprised of 5 acres, is zoned C1-UP-DC (Neighborhood Commercial, Combining CUP required, Combining Design Scenic Corridor) and is located at 3142 Boyington Road in the Penryn area. (*Continued from January 10, 2006*)

Conduct a public hearing to consider the following:

- a. Sign Permit (PSIN20040783) appeal by Bobby Rogers of the Planning Commission's denial of a sign permit for the re-facing of two existing canopies.

MOTION Holmes/Santucci/Unanimous VOTE 4:0 (Gaines absent), to close the public hearing, overturn the decision of the Planning Commission, accept the CEQA Exemption (Page 296 of the agenda package) and direct staff to return with Findings.

- b. Variance (PVAA20050302) appeal by Bobby Rogers of the Planning Commission's denial of a variance for the construction of a 50-foot high freestanding pole sign where the maximum permitted height is 25 feet.

MOTION Holmes/Weygandt VOTE 3:1:0 (Kranz No, Gaines absent), to deny the variance appeal.

ADJOURNMENT – Next regular meeting is Tuesday, February 21, 2006.

BOARD OF SUPERVISORS' 2006 MEETING SCHEDULE:

February 21, 2006

March 07, 2006

March 21, 2006

April 03, 2006 (Granlibakken, Tahoe)

April 04, 2006 (Granlibakken, Tahoe)

Type and Date of Election

Gubernatorial Primary

June 6, 2006

COUNTY	
A	Under a current Placer County ordinance enacted by a ballot measure in 1976, Placer County Deputy Sheriffs cannot negotiate salaries. Under that ordinance, salaries are fixed according to a formula using the average salaries of similar positions in designated counties. Shall this ordinance be repealed thereby allowing Placer County Deputy Sheriffs to negotiate their own salaries?
<input type="radio"/>	YES
<input type="radio"/>	NO

A- PLACER DEPUTY SHERIFF			
Number of Precincts	Total		
Precincts Reporting	318		
Total Votes	318	100.0	%
NO	76364		
YES	38841	50.86%	
	37523	49.14%	

MEASURE A

**PROPOSAL TO REPEAL MEASURE F,
PLACER COUNTY SHERIFF PAY ORDINANCE INITIATIVE**

Under a current Placer County ordinance enacted by a ballot measure in 1976, Placer County Deputy Sheriffs cannot negotiate salaries. Under that ordinance, salaries are fixed according to a formula using the average salaries of similar positions in designated counties.

Shall this ordinance be repealed thereby allowing Placer County Deputy Sheriffs to negotiate their own salaries?

YES _____

NO _____

IMPARTIAL ANALYSIS BY PLACER COUNTY COUNSEL

In November of 1976, the voters of Placer County approved an initiative that adopted an ordinance into the Placer County Code. This ordinance requires the Placer County Sheriff's Department sworn law enforcement officers' salaries be fixed at the level of the average salaries of comparable positions in Nevada, El Dorado and Sacramento Counties.

This ordinance is codified as Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative. Since this ordinance was enacted by the voters of Placer County, only a majority vote by Placer County voters voting on this measure can repeal the ordinance.

If repealed, salary levels for sworn law enforcement employees in the Placer County Sheriff's Department would be established in the same manner as other County employees, through periodic negotiation between the Placer County Board of Supervisors and

the representatives for sworn law enforcement employees of the Sheriff's Department.

A "YES" vote on this Measure A would repeal the existing ordinance and enable the Board of Supervisors and the Placer County Sheriff's sworn personnel to negotiate compensation in the same manner as other county employees.

A "NO" vote on this Measure is a vote to retain the existing ordinance.

Anthony J. La Bouff
County Counsel

By: Sabrina M. Thompson
Deputy County Counsel

ARGUMENT IN FAVOR OF MEASURE A

Measure A proposes that Placer County Deputy Sheriffs have the opportunity to negotiate with the County for their salaries.

Currently, under a Placer County ordinance passed in 1976, Deputy Sheriffs salaries are set according to a formula based on neighboring counties pay. The result is that some of our best-trained law enforcement officers are leaving the Sheriff's Department for other agencies.

Measure A simply provides Placer County Deputy Sheriffs with the same right as other law enforcement agencies--the ability to directly negotiate with local government officials who are accountable to taxpayers.

In addition, Measure A will enhance government accountability to our County's taxpayers by allowing our elected Board of Supervisors to make the ultimate negotiating decisions on all components of deputies pay and benefits packages.

That's why members of the League of Placer County Taxpayers have expressed support for this measure and have worked cooperatively with the Placer County Deputy Sheriffs Association to ensure public accountability.

- This measure does not raise taxes
- This measure is about local control and fairness

- This measure will in fact benefit taxpayers by providing better value for your tax dollars--allowing Placer County to recruit and retain outstanding Deputy Sheriffs

This ballot measure would repeal a 30-year old initiative that prevents sheriff's deputies from negotiating their salaries.

- Quality deputies hired over the years have left for higher salaries with other police agencies
- Officers with other agencies have to take a cut in pay to work for Placer County
- In a very competitive field, public safety positions are not being filled in Placer County

That's why Measure A is endorsed by Sheriff Ed Bonner, has the support of the Board of Supervisors and community leaders throughout the region.

Don't compromise public safety. Let's keep our outstanding Placer County Deputy Sheriffs Department.

Vote YES on Measure A!

Sheriff Ed Bonner, Placer County
Randy Padilla, President, Placer County Deputy Sheriffs Association
Gina Garbolino, Mayor of Roseville
Bill Santucci, Placer County Supervisor
Brad Fenocchio

<p>NO ARGUMENT AGAINST MEASURE A WAS SUBMITTED</p>
--

RESOLUTION NO: 2006-30

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY RESOLVE THAT:

WHEREAS, in November of 1976, the voters of Placer County approved an initiative identified as Measure F that set the salaries for sworn law enforcement officers employed with the Placer County Sheriff's Department based upon a formula set in the initiative; and

WHEREAS, Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative is a codified restatement of the ordinance adopted by the voters in the general election in November, 1976, and reads as follows:

3.12.040 Salaries--Placer County sheriff's ordinance initiative.

A. The board of supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County sheriff's office, El Dorado County sheriff's office and Sacramento County sheriff's office for each class of position employ said agencies.

B. Effective January 1, 1977, and effective January 1st of each year thereafter the board of supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first period following January shall fix the average salary for each class of position the Placer County sheriff's office at a level equal to the average of the salary for the comparable positions in the Nevada County sheriff's office, El Dorado County sheriff's office and the Sacramento County sheriff's office.

C. As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:

1. Undersheriff, inspector, corporal, captain, sergeant, deputy, lieutenant.

D. The provisions of this chapter shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are elected by popular vote, and

WHEREAS, the Placer County Deputy's Association has requested that the Placer County Board of Supervisors place on the June 6, 2006 primary election

ballot a measure to repeal this initiative; thereby removing the section quoted above from the Placer County Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California, that:

1. The Board of Supervisors proposes a ballot measure to repeal Measure F, currently designated as Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative;
2. The Board of Supervisors orders that the following question be placed as a County measure on the ballot of the Statewide Primary Election to be held June 6, 2006:

MEASURE A

Under a current Placer County ordinance enacted by a ballot measure in 1976, Placer County Deputy Sheriffs cannot negotiate salaries. Under that ordinance, salaries are fixed according to a formula using the average salaries of similar positions in designated counties.

Shall this ordinance be repealed thereby allowing Placer County Deputy Sheriffs to negotiate their own salaries?

YES ___ NO ___

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held February 7, 2006 by the following vote on roll call:

Ayes: WEYGANDT, HOLMES, KRANZ, SANTUCCI

Noes: NONE

Absent: GAINES

Signed and approved by me after its passage.

Bill Santucci
CHAIRMAN, BOARD OF SUPERVISORS

Attest:
Clerk of said Board
Ann Holman



OFFICE OF

**PLACER COUNTY CLERK – RECORDER –
REGISTRAR OF VOTERS**

Elections Division • 2956 Richardson Drive • P.O. Box 5278 • Auburn, CA 9560
(530) 886-5650 • FAX (530) 886-5688
www.placer.ca.gov/elections

JIM McCAULEY
County Clerk-Recorder-Registrar

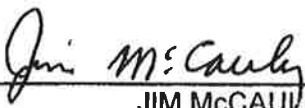
RYAN RONCO
Assistant Registrar-Recorder

CERTIFICATE OF CANVASS OF VOTE

I, JIM McCAULEY, County Clerk-Recorder-Registrar of Voters, County of Placer, State of California, do hereby certify that on June 26, 2006, I canvassed the votes cast in the Gubernatorial Primary Election and the results of said canvass are as follows:

(See Attached)

IN WITNESS WHEREOF I have set my hand and affixed my official seal on this 26th day of June 2006 in accordance with the laws of the State of California.



JIM McCAULEY
PLACER COUNTY CLERK-
RECORDER-REGISTRAR OF VOTERS
State of California



OFFICE OF

**PLACER COUNTY CLERK – RECORDER –
REGISTRAR OF VOTERS**

Elections Division • 2956 Richardson Drive • P.O. Box 5278 • Auburn, CA 9560
(530) 886-5650 • FAX (530) 886-5688
www.placer.ca.gov/elections

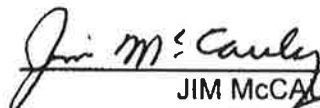
JIM McCAULEY
County Clerk-Recorder-Registrar

RYAN RONCO
Assistant Registrar-Recorder

CERTIFICATE OF LOGIC AND ACCURACY TEST

I, JIM McCAULEY, County Clerk-Recorder-Registrar of Voters, County of Placer, State of California, do hereby certify that on May 16, 2006, a Logic and Accuracy test was completed in conjunction with the Gubernatorial Primary Election and the results were satisfactory.

IN WITNESS WHEREOF I have set my hand and affixed my official seal on this 26th day of June 2006, in accordance with the laws of the State of California.



JIM McCAULEY
PLACER COUNTY CLERK-
RECORDER- REGISTRAR OF VOTERS
State of California

PLACER COUNTY
OFFICIAL ELECTION SUMMARY
June 6, 2006
FINAL

Date: 06/26/06
Time: 12:09:01
Page: 1 of 22

Registered Voters 175945 - Cards Cast 80042 45.49% Num. Report Precinct 318 - Num. Reporting 318 100.00%

GOVERNOR DEM		DEM	
		Total	
Number of Precincts		318	
Precincts Reporting		318	100.0 %
Total Votes		26894	
PHIL ANGELIDES		12529	46.59%
STEVE WESTLY		11995	44.60%
BARBARA BECNEL		648	2.41%
JOE BROUILLETTE		382	1.42%
VIBERT GREENE		339	1.26%
MICHAEL STRIMLING		250	0.93%
FRANK A. MACALUSO JR		175	0.65%
JERALD ROBERT GERST		170	0.63%
Write-in Votes		406	1.51%

GOVERNOR REP		REP	
		Total	
Number of Precincts		318	
Precincts Reporting		318	100.0 %
Total Votes		43854	
A. SCHWARZENEGGER		40314	91.93%
BILL CHAMBERS		1280	2.92%
ROBERT C. NEWMAN II		930	2.12%
JEFFREY R. BURNS		840	1.92%
Write-in Votes		490	1.12%

GOVERNOR AIP		AIP	
		Total	
Number of Precincts		318	
Precincts Reporting		318	100.0 %
Total Votes		690	
EDWARD C. NOONAN		376	54.49%
Write-in Votes		314	45.51%

GOVERNOR GRN		GRN	
		Total	
Number of Precincts		318	
Precincts Reporting		318	100.0 %
Total Votes		335	
PETER MIGUEL CAMEJO		296	88.36%
Write-in Votes		39	11.64%

GOVERNOR LIB		LIB	
		Total	
Number of Precincts		318	
Precincts Reporting		318	100.0 %
Total Votes		232	
ART OLIVIER		206	88.79%
Write-in Votes		26	11.21%

PLACER COUNTY
OFFICIAL ELECTION SUMMARY
June 6, 2006
FINAL

Date:06/26/06
Time:12:09:01
Page:21 of 22

Registered Voters 175945 - Cards Cast 80042 45.49% Num. Report Precinct 318 - Num. Reporting 318 100.00%

A- PLACER DEPUTY SHERIFF

	Total	
Number of Precincts	318	
Precincts Reporting	318	100.0 %
Total Votes	76364	
NO	38841	50.86%
YES	37523	49.14%

B- SIERRA COLLEGE BOND 55 PERCENT

	Total	
Number of Precincts	261	
Precincts Reporting	261	100.0 %
Total Votes	63116	
BONDS NO	35556	56.33%
BONDS YES	27560	43.67%

C- LINCOLN CITY CLERK

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Total Votes	9004	
YES	4763	52.90%
NO	4241	47.10%

D- LINCOLN CITY TREASURER

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Total Votes	8997	
NO	4525	50.29%
YES	4472	49.71%

E- ALTA PARCEL TAX

	Total	
Number of Precincts	3	
Precincts Reporting	3	100.0 %
Total Votes	616	
YES	390	63.31%
NO	226	36.69%

G- GRANT SCHOOL BOND 55 PERCENT

	Total	
Number of Precincts	2	
Precincts Reporting	2	100.0 %
Total Votes	110	
BONDS NO	78	70.91%
BONDS YES	32	29.09%

MEASURE A

PROPOSAL TO REPEAL MEASURE F, PLACER COUNTY SHERIFF PAY ORDINANCE INITIATIVE

Under a current Placer County ordinance enacted by a ballot measure in 1976, Placer County Deputy Sheriffs cannot negotiate salaries. Under that ordinance, salaries are fixed according to a formula using the average salaries of similar positions in designated counties.

Shall this ordinance be repealed thereby allowing Placer County Deputy Sheriffs to negotiate their own salaries?

YES ____

NO ____

IMPARTIAL ANALYSIS BY PLACER COUNTY COUNSEL

In November of 1976, the voters of Placer County approved an initiative that adopted an ordinance into the Placer County Code. This ordinance requires the Placer County Sheriff's Department sworn law enforcement officers' salaries be fixed at the level of the average salaries of comparable positions in Nevada, El Dorado and Sacramento Counties.

This ordinance is codified as Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative. Since this ordinance was enacted by the voters of Placer County, only a majority vote by Placer County voters voting on this measure can repeal the ordinance.

If repealed, salary levels for sworn law enforcement employees in the Placer County Sheriff's Department would be established in the same manner as other County employees, through periodic negotiation between the Placer County Board of Supervisors and

the representatives for sworn law enforcement employees of the Sheriff's Department.

A "YES" vote on this Measure A would repeal the existing ordinance and enable the Board of Supervisors and the Placer County Sheriff's sworn personnel to negotiate compensation in the same manner as other county employees.

A "NO" vote on this Measure is a vote to retain the existing ordinance.

Anthony J. La Bouff
County Counsel

By: Sabrina M. Thompson
Deputy County Counsel

ARGUMENT IN FAVOR OF MEASURE A

Measure A proposes that Placer County Deputy Sheriffs have the opportunity to negotiate with the County for their salaries.

Currently, under a Placer County ordinance passed in 1976, Deputy Sheriffs salaries are set according to a formula based on neighboring counties pay. The result is that some of our best-trained law enforcement officers are leaving the Sheriff's Department for other agencies.

Measure A simply provides Placer County Deputy Sheriffs with the same right as other law enforcement agencies--the ability to directly negotiate with local government officials who are accountable to taxpayers.

In addition, Measure A will enhance government accountability to our County's taxpayers by allowing our elected Board of Supervisors to make the ultimate negotiating decisions on all components of deputies pay and benefits packages.

That's why members of the League of Placer County Taxpayers have expressed support for this measure and have worked cooperatively with the Placer County Deputy Sheriffs Association to ensure public accountability.

- This measure does not raise taxes
- This measure is about local control and fairness

- This measure will in fact benefit taxpayers by providing better value for your tax dollars--allowing Placer County to recruit and retain outstanding Deputy Sheriffs

This ballot measure would repeal a 30-year old initiative that prevents sheriff's deputies from negotiating their salaries.

- Quality deputies hired over the years have left for higher salaries with other police agencies
- Officers with other agencies have to take a cut in pay to work for Placer County
- In a very competitive field, public safety positions are not being filled in Placer County

That's why Measure A is endorsed by Sheriff Ed Bonner, has the support of the Board of Supervisors and community leaders throughout the region.

Don't compromise public safety. Let's keep our outstanding Placer County Deputy Sheriffs Department.

Vote YES on Measure A!

Sheriff Ed Bonner, Placer County
Randy Padilla, President, Placer County Deputy Sheriffs Association
Gina Garbolino, Mayor of Roseville
Bill Santucci, Placer County Supervisor
Brad Fenocchio

<p>NO ARGUMENT AGAINST MEASURE A WAS SUBMITTED</p>

RESOLUTION NO: 2006-30

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY RESOLVE THAT:

WHEREAS, in November of 1976, the voters of Placer County approved an initiative identified as Measure F that set the salaries for sworn law enforcement officers employed with the Placer County Sheriff's Department based upon a formula set in the initiative; and

WHEREAS, Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative is a codified restatement of the ordinance adopted by the voters in the general election in November, 1976, and reads as follows:

3.12.040 Salaries--Placer County sheriff's ordinance initiative.

A. The board of supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County sheriff's office, El Dorado County sheriff's office and Sacramento County sheriff's office for each class of position employ said agencies.

B. Effective January 1, 1977, and effective January 1st of each year thereafter the board of supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first period following January shall fix the average salary for each class of position the Placer County sheriff's office at a level equal to the average of the salary for the comparable positions in the Nevada County sheriff's office, El Dorado County sheriff's office and the Sacramento County sheriff's office.

C. As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:

1. Undersheriff, inspector, corporal, captain, sergeant, deputy, lieutenant.

D. The provisions of this chapter shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are elected by popular vote, and

WHEREAS, the Placer County Deputy's Association has requested that the Placer County Board of Supervisors place on the June 6, 2006 primary election

ballot a measure to repeal this initiative; thereby removing the section quoted above from the Placer County Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California, that:

1. The Board of Supervisors proposes a ballot measure to repeal Measure F, currently designated as Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative;
2. The Board of Supervisors orders that the following question be placed as a County measure on the ballot of the Statewide Primary Election to be held June 6, 2006:

MEASURE A

Under a current Placer County ordinance enacted by a ballot measure in 1976, Placer County Deputy Sheriffs cannot negotiate salaries. Under that ordinance, salaries are fixed according to a formula using the average salaries of similar positions in designated counties.

Shall this ordinance be repealed thereby allowing Placer County Deputy Sheriffs to negotiate their own salaries?

YES ____ NO ____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held February 7, 2006 by the following vote on roll call:

Ayes: WEYGANDT, HOLMES, KRANZ, SANTUCCI

Noes: NONE

Absent: GAINES

Signed and approved by me after its passage.

Bill Santucci
CHAIRMAN, BOARD OF SUPERVISORS

Attest:
Clerk of said Board
Ann Holman



COUNTY OF PLACER

Gubernatorial Primary Election

Tuesday, June 6, 2006

Sample Ballot and Voter Information Pamphlet

To request an
Absentee Voter Ballot
see back cover for an
application form.

For questions please call:
(530) 886-5650 or toll free in
California 1-800-824-8683

Website address:
www.placer.ca.gov/elections

E-mail address:
election@placer.ca.gov

Polling Place Location:

(The location of your polling place may have changed!)

Precinct:



**Polls Open at 7 A.M.
and Close at 8 P.M.**

Take this sample ballot to your polling place for reference.

VOTER PAMPHLET

**The following pages contain
CANDIDATE STATEMENTS OF QUALIFICATION,
BALLOT MEASURES, ANALYSES AND ARGUMENTS
(whichever is applicable to your ballot)**

Each candidate's statement in this pamphlet is volunteered by the candidate and is printed at the expense of the candidate unless otherwise determined by the city, special district or school district in which the candidate is running. Since candidate statements are voluntary, not every candidate has submitted a statement for printing in this pamphlet.

By law, candidate statements and ballot arguments are printed exactly as submitted. This includes any spelling or grammatical errors submitted by the authors on their original documents.

ARGUMENTS IN SUPPORT OF OR IN OPPOSITION TO THE PROPOSED LAWS ARE THE OPINIONS OF THE AUTHORS

Proposition 34 Expenditure Limits

These candidates are running in state legislative races. The candidates that have accepted the Proposition 34 expenditure limits are indicated with an asterisk (*) next to their names. This list is current from the Secretary of State as of press time.

State Senate, District 4

Samuel Aanestad, REP
* Paul R. Singh, DEM
* Robert Wells Vizzard, GRN
Tony Munroe, LIB

State Assembly, District 3

* Michael "Mickey" Harrington, DEM
* Rick Keene, REP

State Assembly, District 4

* Gerald Milton Fritts, GRN
Ted Gaines, REP
* Robert Wesley Haswell, DEM
* Paul Hunt, REP
* Michael Patrick Murphy, LIB

State Assembly, District 5

* Brandon Bell, DEM
* Michael Lopez, PF
* Roger Niello, REP

MEASURE A

**PROPOSAL TO REPEAL MEASURE F,
PLACER COUNTY SHERIFF PAY ORDINANCE INITIATIVE**

Under a current Placer County ordinance enacted by a ballot measure in 1976, Placer County Deputy Sheriffs cannot negotiate salaries. Under that ordinance, salaries are fixed according to a formula using the average salaries of similar positions in designated counties.

Shall this ordinance be repealed thereby allowing Placer County Deputy Sheriffs to negotiate their own salaries?

YES _____ NO _____

IMPARTIAL ANALYSIS BY PLACER COUNTY COUNSEL

In November of 1976, the voters of Placer County approved an initiative that adopted an ordinance into the Placer County Code. This ordinance requires the Placer County Sheriff's Department sworn law enforcement officers' salaries be fixed at the level of the average salaries of comparable positions in Nevada, El Dorado and Sacramento Counties.

This ordinance is codified as Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative. Since this ordinance was enacted by the voters of Placer County, only a majority vote by Placer County voters voting on this measure can repeal the ordinance.

If repealed, salary levels for sworn law enforcement employees in the Placer County Sheriff's Department would be established in the same manner as other County employees, through periodic negotiation between the Placer County Board of Supervisors and

the representatives for sworn law enforcement employees of the Sheriff's Department.

A "YES" vote on this Measure A would repeal the existing ordinance and enable the Board of Supervisors and the Placer County Sheriff's sworn personnel to negotiate compensation in the same manner as other county employees.

A "NO" vote on this Measure is a vote to retain the existing ordinance.

Anthony J. La Bouff
County Counsel

By: Sabrina M. Thompson
Deputy County Counsel

ARGUMENT IN FAVOR OF MEASURE A

Measure A proposes that Placer County Deputy Sheriffs have the opportunity to negotiate with the County for their salaries.

Currently, under a Placer County ordinance passed in 1976, Deputy Sheriffs salaries are set according to a formula based on neighboring counties pay. The result is that some of our best-trained law enforcement officers are leaving the Sheriff's Department for other agencies.

Measure A simply provides Placer County Deputy Sheriffs with the same right as other law enforcement agencies--the ability to directly negotiate with local government officials who are accountable to taxpayers.

In addition, Measure A will enhance government accountability to our County's taxpayers by allowing our elected Board of Supervisors to make the ultimate negotiating decisions on all components of deputies pay and benefits packages.

That's why members of the League of Placer County Taxpayers have expressed support for this measure and have worked cooperatively with the Placer County Deputy Sheriffs Association to ensure public accountability.

- This measure does not raise taxes
- This measure is about local control and fairness

- This measure will in fact benefit taxpayers by providing better value for your tax dollars--allowing Placer County to recruit and retain outstanding Deputy Sheriffs

This ballot measure would repeal a 30-year old initiative that prevents sheriff's deputies from negotiating their salaries.

- Quality deputies hired over the years have left for higher salaries with other police agencies
- Officers with other agencies have to take a cut in pay to work for Placer County
- In a very competitive field, public safety positions are not being filled in Placer County

That's why Measure A is endorsed by Sheriff Ed Bonner, has the support of the Board of Supervisors and community leaders throughout the region.

Don't compromise public safety. * Let's keep our outstanding Placer County Deputy Sheriffs Department.

Vote YES on Measure A!

Sheriff Ed Bonner, Placer County
Randy Padilla, President, Placer County Deputy Sheriffs Association
Gina Garbolino, Mayor of Roseville
Bill Santucci, Placer County Supervisor
Brad Fenocchio

**NO ARGUMENT AGAINST
MEASURE A WAS SUBMITTED**

RESOLUTION NO: 2006-30

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY RESOLVE THAT:

WHEREAS, in November of 1976, the voters of Placer County approved an initiative identified as Measure F that set the salaries for sworn law enforcement officers employed with the Placer County Sheriff's Department based upon a formula set in the initiative; and

WHEREAS, Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative is a codified restatement of the ordinance adopted by the voters in the general election in November, 1976, and reads as follows:

3.12.040 Salaries--Placer County sheriff's ordinance Initiative.

A. The board of supervisors shall, at least annually, determine the existing maximum salaries for the Nevada County sheriff's office, El Dorado County sheriff's office and Sacramento County sheriff's office for each class of position employ said agencies.

B. Effective January 1, 1977, and effective January 1st of each year thereafter the board of supervisors shall, during the month of January, determine the average salary for each class of position as set forth herein, and beginning the first period following January shall fix the average salary for each class of position the Placer County sheriff's office at a level equal to the average of the salary for the comparable positions in the Nevada County sheriff's office, El Dorado County sheriff's office and the Sacramento County sheriff's office.

C. As used herein the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines:

1. Undersheriff, inspector, corporal, captain, sergeant, deputy, lieutenant.

D. The provisions of this chapter shall prevail over any otherwise conflicting provisions which may relate to salaries of county employees or officers who are elected by popular vote, and

WHEREAS, the Placer County Deputy's Association has requested that the Placer County Board of Supervisors place on the June 6, 2006 primary election

ballot a measure to repeal this initiative; thereby removing the section quoted above from the Placer County Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California, that:

1. The Board of Supervisors proposes a ballot measure to repeal Measure F, currently designated as Placer County Code Section 3.12.040 Salaries--Placer County Sheriff's Ordinance Initiative;
2. The Board of Supervisors orders that the following question be placed as a County measure on the ballot of the Statewide Primary Election to be held June 6, 2006:

MEASURE A

Under a current Placer County ordinance enacted by a ballot measure in 1976, Placer County Deputy Sheriffs cannot negotiate salaries. Under that ordinance, salaries are fixed according to a formula using the average salaries of similar positions in designated counties.

Shall this ordinance be repealed thereby allowing Placer County Deputy Sheriffs to negotiate their own salaries?

YES ___ NO ___

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held February 7, 2006 by the following vote on roll call:

Ayes: WEYGANDT, HOLMES, KRANZ, SANTUCCI

Noes: NONE

Absent: GAINES

Signed and approved by me after its passage.

Bill Santucci
CHAIRMAN, BOARD OF SUPERVISORS

Attest:
Clerk of said Board
Ann Holman

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

PA 452

Exhibit 10

1 DAVID E. MASTAGNI, ESQ. (SBN 204244)
davidm@mastagni.com
2 TAYLOR DAVIES-MAHAFFEY, ESQ. (SBN 327673)
tdavies-mahaffey@mastagni.com
3 **MASTAGNI HOLSTEDT**
4 *A Professional Corporation*
1912 "I" Street
5 Sacramento, California 95811
Telephone: (916) 446-4692
6 Facsimile: (916) 447-4614

7 Attorneys for Petitioners

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 IN AND FOR THE COUNTY OF PLACER

11 PLACER COUNTY DEPUTY SHERIFFS'
12 ASSOCIATION and NOAH FREDERITO,

13 Petitioners,

14 vs.

15 COUNTY OF PLACER,

16 Respondent.
17 _____

) Case No.: S-CV-0047770

)

) **PETITIONERS' OPPOSITION TO**
) **RESPONDENT'S DEMURRER**

)

) Date: March 3, 2022

) Time: 8:30 a.m.

) Dept: 42

)

)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

I. INTRODUCTION.....6

II. SUMMARY OF ALLEGATIONS IN FIRST AMENDED PETITION7

III. LEGAL STANDARD9

IV. ARGUMENT10

 A. FIRST CAUSE OF ACTION10

 1. *Measure F Was Validly Adopted by the Voters in 1976.*.....10

 2. *The Placer County Charter Provides an Additional Source of Initiative Power for the 2002*
 and 2006 Votes to Affirm and Retain Measure F......14

 3. *The Board Cannot Repeal Measure F Without a Vote of the Electorate.*15

 4. *The MMBA Does Not Preempt Measure F.*.....16

 B. SECOND CAUSE OF ACTION18

 C. THE COURT SHOULD GRANT LEAVE TO AMEND.....19

V. CONCLUSION20

TABLE OF AUTHORITIES

Cases

<i>Addiego v. Hill</i> (1965) 238 Cal. App. 2d 842	9
<i>Assembly of State of Cal. v. Deukmejian</i> (1982) 30 Cal.3d 638	16
<i>Associated Home Builders etc., Inc. v. City of Livermore</i> (1976) 18 Cal.3d 582	7
<i>Boling v. Public Employment Relations Board</i> (2018) 5 Cal.5th 898	7, 17
<i>Butler v. Sequeira</i> (1950) 100 Cal.App.2d 143	19
<i>Calfarm Ins. Co. v. Deukmejian</i> (1989) 48 Cal.3d 805	11
<i>California Cannabis Coalition v. City of Upland</i> (2017) 3 Cal.5th 924	17
<i>Center for Community Action & Environmental Justice v. City of Moreno Valley</i> (2018) 26 Cal.App.5th 689	17
<i>Childs v. State of California</i> (1983) 144 Cal. App. 3d 155	9
<i>City of Morgan Hill v. Bushey</i> (2018) 5 Cal.5th 1068	10
<i>Coleman v. Gulf Ins. Group</i> (1986) 41 Cal.3d 782	9
<i>Collins v. City & County of S.F.</i> (1952) 112 Cal.App.2d 719	10
<i>County of Riverside v. Superior Court</i> (2003) 30 Cal.4th 278	7, 17
<i>CrossTalk Productions, Inc. v. Jacobson</i> (1998) 65 Cal. App.4th 631	10

1	<i>Cruz v. County of Los Angeles</i>	
2	(1985) 173 Cal.App.3d 1131	10
3	<i>DeVita v. County of Napa</i>	
4	(1995) 9 Cal.4th 763	16
5	<i>Jahr v. Casebeer</i>	
6	(1999) 70 Cal.App.4th 1250	11, 12, 13
7	<i>Khoury v. Maly's of Cal.</i>	
8	(1993) 14 Cal.App.4th 612	19
9	<i>King v. Mortimer</i>	
10	(1948) 83 Cal. App.2d 153	19
11	<i>Kugler v. Yocum</i>	
12	(1968) 69 Cal.2d 371	6, 10, 13, 18
13	<i>Legislature v. Eu</i>	
14	(1991) 54 Cal.3d 492	11, 14, 16
15	<i>Meldrim v. Board of Supervisors</i>	
16	(1976) 57 Cal.App.3d 341	11, 12, 13
17	<i>Morgan Hill v. Bushey</i>	
18	(2018) 5 Cal.5th 1068	10
19	<i>Negri v. Koning & Associates</i>	
20	(2013) 216 Cal.App.4th 392	14
21	<i>People ex rel. Seal Beach Police Officers Assn. v. City of Seal Beach</i>	
22	(1984) 36 Cal.3d 591	7, 17
23	<i>Perkins v. Superior Court</i>	
24	(1981) 117 Cal.App.3d 1	9
25	<i>Rubalcava v. Martinez</i>	
26	(2007) 158 Cal.App.4th 563	7, 16
27	<i>Sonoma County Organization of Public Employees v. County of Sonoma</i>	
28	(2009) 173 Cal.App.4th 332	17, 18
	<i>Spencer v. City of Alhambra</i>	
	(1941) 44 Cal.App.2d 75	13

1	<i>Von Batsch v. American Dist. Telegraph Co.</i>	
2	(1985) 175 Cal.App.3d 1111	19
3	<i>Voters for Responsible Retirement v. Board of Supervisors</i>	
4	(1994) 8 Cal.4th 765	passim
5	<i>Walker v. Los Angeles Cnty.</i>	
6	(1961) 55 Cal. 2d 626	14
7	Statutes	
8	California Constitution, Article II, section 11	6, 10, 12, 13
9	California Constitution, Article XI, section 1(b)	passim
10	Elections Code § 9125	passim
11	Evidence Code § 664	14
12		
13	Government Code § 25123(e)	16
14	Government Code § 3500	17
15		
16	Government Code § 3505	16
17	Government Code § 3505.1	16
18	Other Authorities	
19	County Code § 3.12.040	passim
20		
21		
22		
23		
24		
25		
26		
27		
28		

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3
4
5
6
7
8
9

0
1

2
3
4
5
6
7
8
9

20
21
22
23
24
25
26
27

1 The three election results not only trigger the protections of Elections Code section 9125,
2 but also constitutional protections of the initiative power. The people's reserved power of initiative
3 must be liberally construed to prevent the Board from annulling the will of the voters by simply
4 passing the repeal which the voters twice rejected. (See *Associated Home Builders etc., Inc. v. City*
5 *of Livermore* (1976) 18 Cal.3d 582, 591 ("*Associated Home Builders*"); see also *Rubalcava v.*
6 *Martinez* (2007) 158 Cal.App.4th 563, 573 (*Rubalcava*) [holding the courts may properly devise
7 procedures necessary to protect these powers even in the absence of a constitutional provision
8 expressly addressing such conduct].)

9 The County's other arguments also lack merit. The County misapprehends the import of
10 *County of Riverside v. Superior Court* (2003) 30 Cal.4th 278 (*Riverside*), which involved State
11 mandated delegations of local control over compensation, but not whether the electorate can choose
12 to delegate such authority through the initiative process. Similarly, Respondent's motion
13 misconstrues the import of *Voters, supra*, 8 Cal.4th 765, which narrowly held that the MMBA
14 preempted a referendum on a labor contract that had been bargained and agreed upon by the parties.
15 The Court rejected the contention that Article XI, Section 1(b) broadly restricts the initiative or
16 referendum process on employee compensation decisions. Accordingly, courts have long held that
17 matters within the scope of representation may be the subject matter of a voter initiative, so long as
18 the MMBA meet and confer obligations are first met. (See *People ex rel. Seal Beach Police Officers*
19 *Assn. v. City of Seal Beach* (1984) 36 Cal.3d 591 (*Seal Beach*); *Boling v. Public Employment*
20 *Relations Board* (2018) 5 Cal.5th 898 (*Boling*).)

21 For these reasons, the County's demurrer lacks merit and should be denied. Petitioners'
22 have sufficiently stated a claim that the County violated the California Constitution, Elections Code,
23 and Section 3.12.040.

24 **II. SUMMARY OF ALLEGATIONS IN FIRST AMENDED PETITION**

25 In 1976, the voters of Placer County passed an initiative known as Measure F. (Petition ¶ 5,
26 Declaration of Ryan Ronco ISO County's RFJN ("Ronco Dec.") Exhibit C.) Measure F, which
27 was codified in Section 3.12.040, fixed the salaries of sworn employees of the Placer County
28

1 Sheriffs' Office at the average salary for each comparable position in the sheriff's offices for
2 Nevada, El Dorado, and Sacramento counties. (*Ibid.*)

3 In 1980, the voters established the Placer County Charter, which is now codified in the
4 County Code¹. (Petition ¶ 7.) Charter section 302(d) provides that the "Board shall provide, by
5 ordinance, for the number of assistants, deputies, clerks, and other persons to be employed from
6 time to time in the several offices and institutions of the county, and for their compensation." (*Ibid.*)
7 Section 604 provides that all laws in effect at "all laws of the county in effect at the County Code
8 section effective date of this Charter shall continue in effect according to their terms unless contrary
9 to the provisions of this Charter." (Petition ¶ 8.) Section 607(a) provides "[t]he electors of the
10 county may be majority vote and pursuant to general law ... [e]xercise the powers of initiative and
11 referendum." (Ronco Dec., Exh. D.) Prior to 2020, the County has consistently construed Measure
12 F's salary setting provisions as harmonious with the Charter's general grant of authority to the
13 Board to provide for compensation. (Petition ¶ 9.)

14 In 2002, both the County and DSA wanted to negotiate a base salary that deviated from the
15 Measure F formula. (Petition ¶ 12.) The County's representatives informed the DSA that Measure
16 F formula set the base salary. Mutually desiring to eliminate Measure F, the County agreed to place
17 "Measure R" asking the voters whether to repeal Measure F. (*Ibid.*) The County informed the voters
18 that "[a] 'NO' vote on this measure is a vote to retain the existing ordinance." (Petition ¶¶ 12, 14,
19 Exh. A.) Measure R did not pass, and as a result in 2006, the County placed Measure A on the ballot
20 once again seeking to repeal Measure F. (Petition ¶¶ 12, 14.) The voters rejected Measure A.

21 Over the past 44 years, County has adhered to the Measure F formula and has affirmed
22 Measure F multiple times through the adoption and modifications of section 3.12.040. (Petition ¶
23 19.) The parties historically incorporated the Measure F formula in their labor agreements and
24 negotiated other pays and benefits so that base salary was only about half of compensation. (Petition
25 ¶ 17.) As recently as January 12, 2021, the Board adopted an Ordinance amending Section
26

27
28

¹ The Placer County Charter and County Code can be accessed here: <http://qcode.us/codes/placercounty>

1 3.12.040 to exclude certain managers and affirming the application of Measure F to DSA members.
2 (Petition ¶ 20.)

3 On September 28, 2021, the Board adopted Ordinance 6104-B, which effectively amended
4 Section 3.12.040 to repeal the Measure F formula. (Petition ¶ 67, Exhibit I.) On September 28,
5 2021, the Board also adopted Resolution 6105-B, which increased the base salaries of deputies
6 and sergeants by 1.09% and 1.41%, respectively, above the amount set by Measure F in February
7 of 2021. (Petition ¶ 66, Exh. H.) The Board adopted these Ordinances without placing the repeal
8 of the voter-enacted Measure F on the ballot. (Petition ¶ 70.)

9 The Petition alleges that the County's actions violated the California Constitution's
10 protections of the voters' initiative power and Elections Code section 9125, which dictates that "no
11 ordinance proposed by initiative petition...shall be repealed or amended except by a vote of the
12 people." (Petition ¶¶ 76-80.) As the repeal was invalid, Petitioners also allege that the County
13 violated Section 3.12.040 by imposing salaries that deviated from the Measure F formula. (Petition
14 ¶¶ 81-86.) The County has also failed to implement the requisite January 2022 salary adjustment.

15 III. LEGAL STANDARD

16 The sole function of a demurrer is to test the sufficiency of the complaint. (*Childs v. State*
17 *of California* (1983) 144 Cal.App.3d 155, 163.) The issue before the court is whether the complaint,
18 as a whole, contains sufficient facts to apprise the defendant of the basis of the claim upon which
19 the plaintiff is seeking relief. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.) The
20 paragraphs of a complaint should be read in context with factual allegations and not read in
21 isolation. (*Ibid.*) Petitioners are entitled to an assumption of the truth of the properly pleaded
22 material facts and the reasonable inferences that may be drawn therefrom. (*Coleman v. Gulf Ins.*
23 *Group* (1986) 41 Cal.3d 782, 789, fn. 3.) The Court should also view the pleading with a liberal
24 construction so as to affect substantial justice between the parties. (*Addiego v. Hill* (1965) 238 Cal.
25 App. 2d 842, 845.)

26 A demurrer must be overruled when the complaint states facts constituting a cause of action
27 entitling plaintiff to any relief. (*CrossTalk Productions, Inc. v. Jacobson* (1998) 65 Cal. App.4th
28

631, 635.) Moreover, a demurrer is not the appropriate procedure for determining the truth of disputed facts, nor is it the function of the court to speculate as to a plaintiff's ability to support the allegations at trial. (*Cruz v. County of Los Angeles* (1985) 173 Cal.App.3d 1131, 1134.)

IV. ARGUMENT

The demurrer should be denied because the complaint sufficiently alleges violations of the California Constitution, the Elections Code, and Section 3.12.040. Our Supreme Court has repeatedly recognized the vital democratic function of the reserved, not granted, right of the people to adopt or reject local ordinances through initiative in a manner that is co-extensive with the legislative power of the local governing body. (*City of Morgan Hill v. Bushey* (2018) 5 Cal.5th 1068, 1078–1079 (*Morgan Hill*)). Our highest Court has repeatedly rejected the County's core argument that Article XI, Section 1(b) precludes any voter initiatives involving employee compensation. (*Kugler, supra*, 69 Cal.2d at p. 374 *Voters, supra*, 8 Cal.4th at pp. 776–777.) Accordingly, this Court should uphold the longstanding will of the voters and grant the writ.

A. FIRST CAUSE OF ACTION

Petitioner's First Cause of Action asserts that the County violated the California Constitution and Elections Code 9125 by repealing Section 3.12.040 without voter approval. The voters' enactment of Measure F in 1976 was a proper exercise of the voters' initiative power guaranteed by Article II, Section 11 of the Constitution. Further, Measure F has been approved by the voters on three separate occasions, before and after adoption of the County Charter.

1. Measure F Was Validly Adopted by the Voters in 1976.

Placer County voters had the power under Article II, Section 11 of the California Constitution to pass Measure F in 1976. The local electorate's Constitutional right to initiative and referendum is generally co-extensive with the legislative power of the local governing body. (*Morgan Hill v. Bushey* (2018) 5 Cal.5th 1068, 1078-1079.) Setting salaries is legislative, not administrative power of the Board. (*Collins v. City & County of S.F.* (1952) 112 Cal.App.2d 719, 730.) Courts presume that "absent a clear showing of the Legislature's intent to the contrary, that legislative decisions of a city council or board of supervisors ... are subject to initiative and referendum." (*Voters, supra*, 8 Cal.4th at p. 777.) Accordingly, "the initiative power must be

1 liberally construed to promote the democratic process.” (*Legislature v. Eu* (1991) 54 Cal.3d 492,
2 501 (“*Eu*”).) It is the court’s “solemn duty to jealously guard the precious initiative power, and to
3 resolve any reasonable doubts in favor of its exercise.” (*Ibid.*) As with statutes adopted by the
4 Legislature, “all presumptions favor the validity of initiative measures and *mere doubts as to*
5 *validity are insufficient*; such measures must be upheld unless their unconstitutionality clearly,
6 positively, and unmistakably appears.” (*Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 814
7 [emphasis added].)

8 The County’s argument that Placer County Voters not possess initiative power over
9 employee compensation in 1976 is based on a fundamental misunderstanding of two appellate court
10 cases: *Meldrim v. Board of Supervisors* (1976) 57 Cal.App.3d 341 (“*Meldrim*”) and *Jahr v.*
11 *Casebeer* (1999) 70 Cal.App.4th 1250 (“*Jahr*”). *Meldrim* and *Jahr* are interpreting one sentence in
12 Article XI, Section 1(b) which governs only Board compensation, and therefore has no bearing on
13 this case. Section 1(b) states in relevant part:

14 Except as provided in subdivision (b) of Section 4 of this article, each
15 governing body shall prescribe by ordinance the compensation of its
16 members, but the ordinance prescribing such compensation shall be
17 subject to referendum. The Legislature or the governing body may
18 provide for other officers whose compensation shall be prescribed by
the governing body. The governing body shall provide for the number,
compensation, tenure, and appointment of employees.

19 In *Meldrim* and *Jahr*, the voters wanted to pass an initiative setting the compensation of
20 the board of supervisors. The appellate courts interpreted the first sentence in Article XI, Section
21 1(b) to mean on subjects of **board of supervisors’** compensation, the voters only possess the right
22 to referendum, not initiative. The courts reasoned that the Legislature’s inclusion of the term
23 “referendum” indicated that the Legislature intended to foreclose the right to initiative as to
24 supervisors’ compensation.

25 Supervisors’ compensation was set by the Legislature until the enactment of a 1970
26 Constitutional Amendment granting the governing body the power to set their own compensation,
27 subject to referendum which added the first sentence in Section 1(b). (*Voters, supra*, 8 Cal.4th at p.
28 776.) “The amendment did not affect **employee** compensation, which had been and remained a

1 matter of local concern.” (*Ibid.* [emphasis added]) The sentence addressing **employee**
2 compensation does not contain the referendum language *Meldrim* is predicated upon. As our
3 Supreme Court aptly stated, “In sum, article XI, section 1(b), by itself, neither guarantees nor
4 restricts the right to review, by voter referendum, a board of supervisors' decisions regarding
5 compensation of county employees.” (*Ibid.*) *Meldrim* does not support the conclusion that a
6 provision granting legislative power to the Board preempts any initiative powers reserved to the
7 people under Article II, Section 11. Thus, to the extent *Meldrim* remains good law, it has no bearing
8 on Measure F.

9 The demurrer’s claim that Measure F was invalid from inception is based on a fatally flawed
10 interpretation of Section 1(b) as prohibiting initiative powers over employee compensation. Our
11 Supreme Court unequivocally foreclosed that argument. *Voters* broadly supports initiative powers
12 over local employee compensation, so long as the initiative process comports with the safeguards
13 of the MMBA.

14 “If doubts can reasonably be resolved in favor of the use of this reserve power, courts will
15 preserve it. Thus, we will presume, absent a clear showing of the Legislature’s intent to the contrary,
16 that legislative decisions of a city council or board of supervisors—including **local employee**
17 **compensation decisions**—are subject to initiative and referendum. (*Voters, supra*, 8 Cal.4th at pp.
18 776–777 [citations omitted, emphasis added].)

19 As Justice Kennard explained in her concurrence, Section 1(b) merely enshrined the
20 referendum right regarding supervisor compensation separate from the general right of initiative
21 and referendum in Article II, Section 11. (*Id.* at pp. 789-790.) Thus the 1970 amendment of section
22 1(b) did not alter the power of local voter initiatives relating to employee compensation, rather
23 those remain unchanged in Article II, Section 11. (*Ibid.*)

24 *Jahr* artfully distinguishes *Voters* to resuscitate *Meldrim* by cabining its limitation on
25 initiative powers to supervisor compensation based on the Legislature’s delegation of this power to
26 the Board in 1970, subject to “adequate” referendum protections. (*Jahr, supra*, 70 Cal.App.4th at
27 pp. 1255-1260.) *Jahr* distinguishes initiatives governing supervisors’ compensation, holding *Voters*
28 approval of employee compensation initiatives addressed “the ambiguity in the last sentence of

1 article XI, section 1(b)—which contains no mention of referendum or initiative powers”, whereas
2 the sentence “expressly refer[ing] to the referendum power ... escapes the claim of ambiguity raised
3 in *Voters*.” (*Id.* at p. 1257.) As such, *Meldrim* and *Jahr* provide no authority for the claim that the
4 second sentence of section 1(b) prohibits Measure F. Rather, employee compensation has long been
5 a legislative power coextensive with the voters’ initiative power guaranteed by Article II, Section
6 11.

7 Further, in *Kugler*, *supra*, 69 Cal.2d at p. 374, the Supreme Court held “the salaries of city
8 firemen, fall[] within the electorate's initiative power.” *Kugler* involved a proposed initiative, which
9 provided that the salaries of firefighters could not be less than the average of the salaries received
10 by firefighters in the City and County of Los Angeles. In upholding the constitutionality of the
11 initiative, the Court noted the charter provided the city council the power to set employees’ salaries,
12 and the electorate the “right to adopt any ordinance which the council might enact.” The Supreme
13 Court held that “[t]he trial court correctly concluded that the subject matter of the proposed
14 ordinance, that is the salaries of city firemen, falls within the electorate's initiative power.” (*Ibid.*)
15 The charter initiative powers mirror the Article II, Section 2, which are also co-extensive with the
16 powers granted to local charters are co-extensive with the powers granted under the Constitution.
17 Similarly, in *Spencer v. City of Alhambra* (1941) 44 Cal.App.2d 75 (*Spencer*), the Court of Appeal
18 for the Second District upheld a voter initiative that established the minimum salaries for police
19 officers. The court reasoned that the city charter “reserved to the electors the broadest possible
20 powers in the matter of initiative legislation” including the power to fix employee wages. (*Id.* at p.
21 80.)

22 The County may reply that *Kugler* and *Spencer* deal with initiatives setting *minimum*
23 *salaries*, and thus to not apply to Measure F which provides both a floor and a ceiling for deputies’
24 salaries.² However, Measure F only sets base “salary” for deputies. Under Measure F, the County
25 still retains ultimate discretion to set “compensation” as specified in the Charter. Compensation is
26 a broader term than salary. In general, salary is the fixed amount of money the employer pays the
27

28 ² The County’s position regarding whether Measure F sets both a floor and ceiling or just a minimum floor has been inconsistent. (See Petition ¶¶ 10-14, 38-41.)

1 employee over the course of a year in exchange for work performed, and “is a more specific form
2 of compensation.” (*Negri v. Koning & Associates* (2013) 216 Cal.App.4th 392, 397.) Placer County
3 deputies’ base salary is only about half of their compensation. (Petition ¶ 17.) The Board retains
4 and has historically exercised its ability to negotiate a higher total compensation package while
5 adhering to Measure F. (Petition ¶¶ 21-52, 58-63, 64-66, Exh E.)

6 Further, Measure F must be “liberally construed” and all presumptions must be drawn in
7 favor of its validity. (*Eu, supra*, 54 Cal.3d at p. 501.) . The County has previously interpreted
8 Measure F as setting a floor for salary. (Petition ¶¶ 38-39, Exhibit E.) Thus, if the Court concludes
9 Measure F improperly fixes salary, it should interpret Measure F as setting a *minimum* for deputies’
10 salary. There is no doubt that the electorate has the power to pass an initiative setting a minimum
11 salary for deputies in Placer County.

12 **2. The Placer County Charter Provides an Additional Source of Initiative**
13 **Power for the 2002 and 2006 Votes to Affirm and Retain Measure F.**

14 The enactment of the Charter in 1980 did not void Measure F, as it remains compatible with
15 the Board’s power to set compensation. Measure F merely establishes a base salary floor which
16 represents about half of deputies’ total compensation set by the Board. (Petition ¶ 17.) The 1980
17 Board correctly deemed Measure F as compatible with the Board’s power to provide compensation.
18 The Board’s determination 42 years ago is presumed to have been regularly performed. (See Evid.
19 Code § 664; see also *Walker v. Los Angeles Cnty.* (1961) 55 Cal. 2d 626, 636.) The Board’s
20 determination of compatibility was confirmed by the County CEO’s editorial pronouncing Measure
21 F’s validity in 2003. (Petition ¶ 13, Exh. B.) Ironically, the enactment of the Charter bolstered the
22 initiative powers of the Placer County by enacting Charter Section 607. Thus, any alleged defects
23 regard the 1976 enactment were cured by the 2002 and 2006 initiative elections to retain it.

24 Because Section 3.12.040 has been incorporated into labor agreement, it was adopted by the
25 Board, the ordinance was valid in 2002, even if the 1976 vote was deficient. The County has
26 affirmed Measure F multiple times through the adoption of and modifications to Section 3.12.040.³

27
28 ³ For example, it was affirmed in a Resolution renumbering the ordinance, in ordinances adopting Petitioners’ labor agreements which contained the formula, and amended to include new management positions that did not exist in

1 Thus, at the very least Section 3.12.040 was validity enacted through Board of Supervisors
2 resolutions pursuant to the Board's authority to set compensation under Section 302. The voters
3 affirmed Section 3.12.040 twice after the enactment of the Charter. In 2002, both the County and
4 DSA wanted to negotiate a base salary that deviated from the Measure F formula. The County
5 agreed to place "Measure R" on the ballot seeking to repeal Measure F. (Petition ¶ 12, Exh. A.)
6 Measure R asked the voters, "Shall Placer County Code, Chapter 3, Section 3.12.040 (also known
7 as Measure F) be amended to remove that section in its entirety, thereby repealing that provisions
8 which requires Placer County Sheriff Deputy salaries to be set by averaging the Sheriff Deputy
9 salaries in Nevada County, Sacramento County, and El Dorado County?" The County's impartial
10 analysis on the ballot described a "no" vote as follows: "A "NO" vote on this Measure is a vote to
11 retain the existing ordinance that sets the compensation for Placer County Sheriff's sworn personnel
12 at the same rate as the average compensation level of those sworn law enforcement personnel in
13 comparable positions in the counties of Nevada, Sacramento and El Dorado." (*Ibid.*) Because
14 Measure R did not pass in 2002, the County and the DSA placed "Measure A" on the ballot again
15 seeking to repeal Measure F. (Petition ¶ 14, Exh. C.) A no vote on Measure A was also described
16 to the voters as a vote to retain Measure F. Measure A's attempt to repeal Measure F was also
17 rejected by the voters. Thus, the 2002 and 2006 votes to retain Measure F are a proper exercise of
18 initiative powers, which can only be repealed by a subsequent initiative.

19 In sum, following its original enactment, Measure F was carried over by the Board with the
20 enactment of the Charter, affirmed twice by the voters, and continuously adopted and implemented
21 by the Board for over 40 years. Even if the original 1976 initiative was invalid, it has since been
22 lawfully adopted by the Board and the voters.

23 **3. The Board Cannot Repeal Measure F Without a Vote of the Electorate.**

24 The County cannot thwart the will of the voters by unilaterally repealing Measure F.
25 Elections Code section 9125 provides, in relevant part, "No ordinance proposed by initiative
26 petition and adopted either by the board of supervisors without submission to the voters or adopted
27

28 1976. As recently as January 12, 2021, the Board adopted an ordinance amending section 3.12.040 to exclude certain managers and affirming the application of Measure F to DSA members. (Petition ¶ 13, Exh. D.)

1 by the voters **shall be repealed or amended except by a vote of the people.**” (Emphasis added.)
2 Section 9125 “has its roots in the constitutional right of the electorate to initiative, ensuring that
3 successful initiatives will not be undone by subsequent hostile boards of supervisors.” (*DeVita v.*
4 *County of Napa* (1995) 9 Cal.4th 763, 788.) Thus courts “jealously guard” the initiative power and
5 “resolve any reasonable doubts in favor of its exercise.” (*Eu, supra*, 54 Cal.3d at p. 501.)

6 The implied and self-enacting provisions of the California Constitution protecting the
7 initiative and referendum process provide a separate and independent basis for requiring a vote of
8 the people before repealing Section 3.12.040. (*Rubalcava, supra*, 158 Cal.App.4th at p. 571 [“The
9 courts may properly devise procedures necessary to protect the power.”].) In the context of a
10 referendum vote, our Supreme Court held “[s]ince its inception, the right of the people to express
11 their collective will through the power of the referendum has been vigilantly protected by the courts.
12 Thus, it has been held that legislative bodies cannot nullify this power by voting to enact a law
13 identical to a recently rejected referendum measure.” (*Assembly of State of Cal. v. Deukmejian*
14 (1982) 30 Cal.3d 638, 678.) The protection of the referendum process should be equally applied to
15 initiative powers here. Since the electorate twice voted to retain the base salary formula for DSA
16 members, this court should prohibit the County from nullifying the will of the voters by repealing
17 the same ordinance they voted not to repeal.

18 **4. The MMBA Does Not Preempt Measure F.**

19 The County’s argument that Section 3.12.040 is preempted by Government Code section
20 3505 is unreasonable and should not be given any weight. Despite the County’s misrepresentation,
21 *Voters, supra*, 8 Cal.4th 765 is distinguishable and has no relevance here. *Voters* recognized a
22 narrow referendum exemption involving only the adoption of an agreed upon labor contract based
23 on the requirements Government Code Sections 3505.1 and 25123(e). The statutes respectively
24 reserve to the governing body the right to accept or rejected a negotiated labor agreement and
25 requires that implementation of such an agreement takes effect immediately. Because the adoption
26 of labor agreements, once negotiated with the employee organization, is a matter of statewide
27 concern, once adopted the agreement is preempted from the referendum process. (*Voters, supra*, 8
28 Cal.4th at 771.) In *Voters*, “[t]he Supreme Court was focused on whether employee compensation

1 was subject to referendum, not whether either determination could be accomplished through
2 initiative.” (*Center for Community Action & Environmental Justice v. City of Moreno Valley* (2018)
3 26 Cal.App.5th 689, 702.) Measure F was a voter initiative setting a base salary, not a referendum
4 on an MOU.

5 Moreover, the mere fact that the subject matter of an initiative is within the scope of
6 bargaining under the MMBA, does not automatically mean that the MMBA preempts it. The
7 MMBA does not forbid the passage of initiatives related to wages, hours, or working conditions, it
8 merely requires that the governing body meet and confer with the union prior to placing such
9 initiatives on the ballot. (See, e.g., *Boling, supra*, 5 Cal.5th 898 [MMBA required the city to meet
10 and confer with the union prior to placing an initiative on the ballot which would have reduced
11 employee pensions]; *Seal Beach, supra*, 36 Cal.3d 591 [MMBA’s requirement that the city council
12 meet and confer with the unions prior to enacting charter amendments related to the penalty for
13 strikes did not conflict with city council’s constitutional authority.]). The California Supreme Court
14 has held that “without an unambiguous indication that a provision’s purpose was to constrain the
15 initiative power, we will not construe it to impose such limitations.” (*California Cannabis Coalition*
16 *v. City of Upland* (2017) 3 Cal.5th 924, 945–946.) Further, the MMBA itself confirms that nothing
17 in the statute “shall be deemed to supersede the provisions of existing state law and the charters,
18 ordinances, and rules of local public agencies.” (Gov. Code § 3500.) Measure F is not incompatible
19 with the MMBA, and there is no evidence that the Legislature in enacting the MMBA intended to
20 limit the people’s initiative authority as exercised in Measure F. Thus, it is presumed that the
21 MMBA does not preempt the people’s exercise of their initiative power through Measure F.

22 **5. Measure F Does Not Improperly Delegate Legislative Authority.**

23 The County’s argument that Measure F improperly delegates the Board’s authority to the
24 governing bodies in Nevada, El Dorado, and Sacramento counties is specious.

25 The County’s reliance on *Sonoma County Organization of Public Employees v. County of*
26 *Sonoma* (2009) 173 Cal.App.4th 332 (“*Sonoma*”) and *County of Riverside v. Superior Court* (2003)
27 30 Cal.4th 278 (“*Riverside*”) is misplaced. *Sonoma* and *Riverside* did not address whether a **county**
28 can enact a local wage ordinance. Rather, they held that the **State** cannot usurp the county’s

1 authority. Because the determination of wages is a matter of local concern, the State cannot dictate
2 employee compensation for cities and counties by imposing interest arbitration. The Supreme Court
3 in *Riverside* pointed out the paramount distinction between the authority of the State and County
4 voters. (*County of Riverside, supra*, 30 Cal.4th at 295.) The Court “emphasize[d] that the issue is
5 not whether a county may voluntarily submit compensation issues to arbitration, i.e., whether the
6 county may delegate its own authority, but whether the Legislature may compel a county to submit
7 to arbitration involuntarily.” (*Riverside, supra*, 30 Cal.4th at p. 284.) Thus, *Riverside* and *Sonoma*
8 are not relevant.

9 Further, in *Kugler*, the Supreme Court held the proposed initiative did not impermissibly
10 delegate legislative power to the City and County of Los Angeles to set employee compensation.
11 The Court reasoned that “the proposed ordinance contains built-in and automatic protections that
12 serve as safeguards against exploitive consequences from the operation of the proposed ordinance.
13 Los Angeles is no more anxious to pay its firemen exorbitant compensation than is Alhambra. The
14 Legislature could reasonably assume that competition coupled with bargaining power would
15 provide a safeguard against excessive prices.” (*Id.* p. 382 [internal citations omitted]). As discussed
16 above, Measure F is analogous to the wage ordinance at issue in *Kugler* and contains the same
17 safeguards by tying Placer County deputies’ salaries to the salaries of deputies in neighboring
18 counties.⁴ Thus, the County’s meritless argument that Measure F is an impermissible delegation of
19 legislative authority is directly contrary to California Supreme Court precedent and should be
20 disregarded.

21 In conclusion, Petitioners have sufficiently plead that the County violated the California
22 Constitution and Elections Code. Thus, the Court should deny the County’s demurrer to the First
23 Cause of Action.

24 **B. SECOND CAUSE OF ACTION**

25 Petitioner’s Second Cause of Action asserts that the County violated the Constitution and
26 Section 3.12.040 by imposing on the DSA a salary that deviated from the formula. Petitioner’s
27

28 ⁴ Measure F provides the County even greater safeguards given Placer County’s much stronger financial position and higher cost of living relative to Sacramento, Nevada and El Dorado Counties.

1 claim is not fatally uncertain. Even if a “complaint is in some respects uncertain” courts should
2 overrule a demurrer if “[the] allegations, liberally construed, are sufficient to apprise the defendant
3 of the issues that he or she is to meet. (*Butler v. Sequeira* (1950) 100 Cal.App.2d 143, 145; citing
4 *Khoury v. Maly's of Cal.* (1993) 14 Cal.App.4th 612, 616.)

5 As set forth above, the voters reserved right to enact local legislation is constitutionally
6 protected. Separate and independent from the requirements of Section 9125, the Constitution
7 requires the courts to fashion protections against efforts to nullify the will of the voters. This case
8 presents the Court with such an opportunity to safeguard initiative powers by preventing the Board
9 from nullifying the 1976, 2002, and 2006 determinations of the voters. Here, Petitioners have
10 alleged that the Constitution create a clear, present and ministerial duty to adhere to Measure F by
11 setting salaries in conformance with the formula. This is sufficient to place the County on notice,
12 and thus their demurrer should be denied on these grounds. Alternatively, Petitioner requests leave
13 to amend additional allegation regarding these Constitutional safeguards, as well as the new
14 violation of Section 3.12.040 that occurred when the County failed to adjust salaries in January of
15 2022.

16 **C. THE COURT SHOULD GRANT LEAVE TO AMEND.**

17 Alternatively, if the Court believes that Petitioners failed to adequately allege these facts
18 and demonstrate a claim to relief against the County, Petitioners respectfully request leave to amend
19 the Petition.

20 Pursuant to California Code of Civil Procedure section 472a(c) “if a demurrer is sustained,
21 the court may grant leave to amend the pleading upon any terms as may be just and shall fix the
22 time within which the amendment or amended pleading shall be filed.” Requests to amend a
23 pleading that has been challenged by demurrer are routinely granted, and amendments should be
24 liberally permitted. (*Von Batsch v. American Dist. Telegraph Co.* (1985) 175 Cal.App.3d 1111,
25 1119.) Unless an original complaint shows on its face that it is incapable of amendment, denial of
26 leave to amend constitutes an abuse of discretion. (*King v. Mortimer* (1948) 83 Cal. App.2d 153,
27 158.) Therefore, if the Court determines that any of Petitioners claims are uncertain or fail to state
28 a claim, the Court should grant Petitioners leave to amend to correct the deficiencies.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

V. CONCLUSION

For all the foregoing reasons, the Court should deny the County’s demurrer in its entirety,
or in the alternative, grant Petitioners leave to amend.

Respectfully Submitted:

DATED: February 17, 2022

MASTAGNI HOLSTEDT, APC



DAVID E. MASTAGNI, ESQ.
TAYLOR DAVIE-MAHAFFEY, ESQ.
Attorneys for Petitioners

1 **PROOF OF SERVICE**

2 SHORT TITLE OF CASE: *Placer County DSA, et al. vs. County of Placer*

3 I am a citizen of the United States and a resident of the County of Sacramento. I am over
4 the age of 18 years and am not a party to the within action. My business address is 1912 I Street,
Sacramento, California 95811. My e-mail is jdelgado@mastagni.com.

5 On **February 17, 2022**, I served the below-described document(s) by the following means
6 of service:

7 **X BY OVERNIGHT DELIVERY [C.C.P. §§1013(c) & (d)]:**

8 I enclosed the below-described documents in a sealed envelope/package provided by an
overnight delivery carrier and addressed to the persons as set forth below. I placed the
9 envelope/package for collection and overnight delivery at the overnight delivery carrier's office
or regularly utilized drop box; and

10 **X BY ELECTRONIC SERVICE [C.C.P. §1010.6(a)]:**

11 Based on a court order or an agreement of the parties to accept electronic service, I caused a
12 .pdf version of the below-described documents to be sent to the persons at the electronic mail
addresses set forth below.

13 NAME/DESCRIPTION OF DOCUMENT(S) SERVED:

- 14 • **PETITIONERS' OPPOSITION TO RESPONDENT'S DEMURRER**

15 ADDRESSES OF SERVICE:

16 17 Michael Youril myouril@lcwlegal.com 18 Lars Reed lreed@lcwlegal.com 19 Liebert Cassidy Whitmore 20 5250 North Palm Ave, Ste 310 21 Fresno, CA 93704	
--	--

22 I declare under penalty of perjury, under the laws of the State of California, that the
23 foregoing is true and correct and was executed on **February 17, 2022**, at Sacramento, California.

24 _____
Jessica Delgado

PROOF OF SERVICE

I am a citizen of the United States and resident of the State of California. I am employed in Sacramento, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years and not a party to the within action.

On **June 13, 2022**, I served the foregoing document(s) described as
**APPENDIX TO PETITION FOR WRIT OF MANDATE AND/OR
PROHIBITION OR OTHER APPROPRIATE RELIEF [VOLUME 2 OF 4,
PP. PA 178 - PA 475]** in the manner checked below on all interested parties in this action addressed as follows:

Mr. David Mastagni
Mastagni Holstedt, A.P.C.
1912 I Street
Sacramento, CA 95811
telephone: 9164464692

email: davidm@mastagni.com

- ☒ **(BY U.S. MAIL)** I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Sacramento, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☒ **(BY ELECTRONIC SERVICE)** By electronically mailing a true and correct copy through Liebert Cassidy Whitmore’s electronic mail system from lsossaman@lcwlegal.com to the email address(es) set forth above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on **June 13, 2022**, at Sacramento, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Lauren Sossaman